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House of Representatives

The House was not in session today. Its next meeting will be held on Tuesday, February 23, 1999, at 12:30 p.m.

Senate

MONDAY, FEBRUARY 22, 1999

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

PRAYER

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

Almighty God, as we celebrate George Washington's birthday, give us the courage to attempt great things for You and the humility to expect great strength from You. Help us to live beyond the meager resources of our own inadequacies and discover again that You are totally reliable when we trust You completely. You lead us to confront old problems with new power from You.

Dear God, today the Senators return to the crucial work of developing creative legislation to solve the needs of our Nation. Give them a fresh burst of excitement about the challenges ahead this next month. Renew the unity achieved in past weeks. May the differing approaches expressed by both parties contribute to greater solutions. Change the win-lose mind-set of party politics to the win/win mentality of leaders who work together for Your greater good and for America. You are our Lord and Savior. Amen.

RESERVATION OF LEADER TIME

The PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

READING OF WASHINGTON'S FAREWELL ADDRESS

The PRESIDENT pro tempore. Under the previous order, the Senator from

Ohio, Mr. VOINOVICH, is recognized to read Washington's Farewell Address.

Mr. VOINOVICH, at the rostrum, read the Farewell Address, as follows:

To the people of the United States:

FRIENDS AND FELLOW CITIZENS: The period for a new election of a citizen to administer the executive government of the United States being not far distant, and the time actually arrived when your thoughts must be employed in designating the person who is to be clothed with that important trust, it appears to me proper, especially as it may conduce to a more distinct expression of the public voice, that I should now apprise you of the resolution I have formed, to decline being considered among the number of those out of whom a choice is to be made.

I beg you at the same time to do me the justice to be assured, that this resolution has not been taken without strict regard to all the considerations appertaining to the relation which binds a dutiful citizen to his country—and that, in withdrawing the tender of service which silence in my situation might imply, I am influenced by no diminution of zeal for your future interest, no deficiency of grateful respect for your past kindness, but am supported by a full conviction that the step is compatible with both.

The acceptance of, and continuance hitherto in the office to which your suffrages have twice called me have been a uniform sacrifice of inclination to the opinion of duty, and to a deference for what appeared to be your desire. I constantly hoped that it would have been much earlier in my power, consistently with motives which I was

not at liberty to disregard, to return to that retirement from which I had been reluctantly drawn. The strength of my inclination to do this, previous to the last election, had even led to the preparation of an address to declare it to you; but mature reflection on the then perplexed and critical posture of our affairs with foreign nations, and the unanimous advice of persons entitled to my confidence, impelled me to abandon the idea.

I rejoice that the state of your concerns external as well as internal, no longer renders the pursuit of inclination incompatible with the sentiment of duty or propriety; and am persuaded, whatever partiality may be retained for my services, that in the present circumstances of our country you will not disapprove my determination to retire.

The impressions with which I first undertook the arduous trust were explained on the proper occasion. In the discharge of this trust, I will only say that I have, with good intentions, contributed towards the organization and administration of the government the best exertions of which a very fallible judgment was capable. Not unconscious in the outset of the inferiority of my qualifications, experience, in my own eyes, perhaps still more in the eyes of others, has strengthened the motives to diffidence of myself; and, every day, the increasing weight of years admonishes me more and more that the shade of retirement is as necessary to me as it will be welcome. Satisfied that if any circumstances have given peculiar value to my services, they were temporary, I have the consolation to believe that, while choice and prudence

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.



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invite me to quit the political scene, patriotism does not forbid it.

In looking forward to the moment which is intended to terminate the career of my political life, my feelings do not permit me to suspend the deep acknowledgment of that debt of gratitude which I owe to my beloved country for the many honors it has conferred upon me, still more for the steadfast confidence with which it has supported me and for the opportunities I have thence enjoyed of manifesting my inviolable attachment by services faithful and persevering, though in usefulness unequal to my zeal. If benefits have resulted to our country from these services, let it always be remembered to your praise and as an instructive example in our annals, that, under circumstances in which the passions agitated in every direction were liable to mislead, amidst appearances sometimes dubious, vicissitudes of fortune often discouraging, in situations in which not unfrequently, want of success has countenanced the spirit of criticism, the constancy of your support was the essential prop of the efforts and a guarantee of the plans by which they were effected. Profoundly penetrated with this idea, I shall carry it with me to my grave as a strong incitement to unceasing vows that Heaven may continue to you the choicest tokens of its beneficence; that your union and brotherly affection may be perpetual; that the free constitution, which is the work of your hands, may be sacredly maintained; that its administration in every department may be stamped with wisdom and virtue; that, in fine, the happiness of the people of these states, under the auspices of liberty, may be made complete by so careful a preservation and so prudent a use of this blessing as will acquire to them the glory of recommending it to the applause, the affection, and adoption of every nation which is yet a stranger to it.

Here, perhaps, I ought to stop. But a solicitude for your welfare, which cannot end but with my life, and the apprehension of danger natural to that solicitude, urge me on an occasion like the present to offer to your solemn contemplation, and to recommend to your frequent review, some sentiments which are the result of much reflection, of no inconsiderable observation, and which appear to me all important to the permanency of your felicity as a people. These will be offered to you with the more freedom as you can only see in them the disinterested warnings of a parting friend, who can possibly have no personal motive to bias his counsel. Nor can I forget, as an encouragement to it, your indulgent reception of my sentiments on a former and not dissimilar occasion.

Interwoven as is the love of liberty with every ligament of your hearts, no recommendation of mine is necessary to fortify or confirm the attachment.

The unity of government which constitutes you one people is also now

dear to you. It is justly so; for it is a main pillar in the edifice of your real independence, the support of your tranquility at home, your peace abroad, of your safety, of your prosperity, of that very liberty which you so highly prize. But as it is easy to foresee that, from different causes and from different quarters, much pains will be taken, many artifices employed, to weaken in your minds the conviction of this truth; as this is the point in your political fortress against which the batteries of internal and external enemies will be most constantly and actively (though often covertly and insidiously) directed, it is of infinite moment that you should properly estimate the immense value of your national Union to your collective and individual happiness; that you should cherish a cordial, habitual, and immovable attachment to it; accustoming yourselves to think and speak of it as of the palladium of your political safety and prosperity; watching for its preservation with jealous anxiety; discountenancing whatever may suggest even a suspicion that it can, in any event, be abandoned; and indignantly frowning upon the first dawning of every attempt to alienate any portion of our country from the rest, or to enfeeble the sacred ties which now link together the various parts.

For this you have every inducement of sympathy and interest. Citizens by birth or choice of a common country, that country has a right to concentrate your affections. The name of American, which belongs to you in your national capacity, must always exalt the just pride of patriotism more than any appellation derived from local discriminations. With slight shades of difference, you have the same religion, manners, habits, and political principles. You have in a common cause fought and triumphed together. The independence and liberty you possess, are the work of joint councils and joint efforts—of common dangers, sufferings and successes.

But these considerations, however powerfully they address themselves to your sensibility, are greatly outweighed by those which apply more immediately to your interest. Here every portion of our country finds the most commanding motives for carefully guarding and preserving the Union of the whole.

The *North*, in an unrestrained intercourse with the *South*, protected by the equal laws of a common government, finds in the productions of the latter, great additional resources of maritime and commercial enterprise, and precious materials of manufacturing industry. The *South*, in the same intercourse, benefiting by the same agency of the *North*, sees its agriculture grow and its commerce expand. Turning partly into its own channels the seamen of the *North*, it finds its particular navigation invigorated; and while it contributes, in different ways, to nourish and increase the general mass of

the national navigation, it looks forward to the protection of a maritime strength to which itself is unequally adapted. The *East*, in a like intercourse with the *West*, already finds, and in the progressive improvement of interior communications by land and water will more and more find a valuable vent for the commodities which it brings from abroad or manufactures at home. The *West* derives from the *East* supplies requisite to its growth and comfort—and what is perhaps of still greater consequence, it must of necessity owe the secure enjoyment of indispensable outlets for its own productions to the weight, influence, and the future maritime strength of the Atlantic side of the Union, directed by an indissoluble community of interest as *one nation*. Any other tenure by which the *West* can hold this essential advantage, whether derived from its own separate strength or from an apostate and unnatural connection with any foreign power, must be intrinsically precarious.

While then every part of our country thus feels an immediate and particular interest in union, all the parts combined cannot fail to find in the united mass of means and efforts greater strength, greater resource, proportionably greater security from external danger, a less frequent interruption of their peace by foreign nations; and, what is of inestimable value! they must derive from union an exemption from those broils and wars between themselves which so frequently afflict neighboring countries not tied together by the same government, which their own rivalships alone would be sufficient to produce, but which opposite foreign alliances, attachments, and intrigues would stimulate and embitter. Hence likewise, they will avoid the necessity of those overgrown military establishments, which under any form of government are inauspicious to liberty, and which are to be regarded as particularly hostile to republican liberty. In this sense it is, that your Union ought to be considered as a main prop of your liberty, and that the love of the one ought to endear to you the preservation of the other.

These considerations speak a persuasive language to every reflecting and virtuous mind, and exhibit the continuance of the Union as a primary object of patriotic desire. Is there a doubt whether a common government can embrace so large a sphere? Let experience solve it. To listen to mere speculation in such a case were criminal. We are authorized to hope that a proper organization of the whole, with the auxiliary agency of governments for the respective subdivisions, will afford a happy issue to the experiment. It is well worth a fair and full experiment. With such powerful and obvious motives to union, affecting all parts of our country, while experience shall not have demonstrated its impracticability, there will always be reason to distrust the patriotism of those who in

any quarter may endeavor to weaken its hands.

In contemplating the causes which may disturb our Union, it occurs as matter of serious concern, that any ground should have been furnished for characterizing parties by *geographical* discriminations—*northern* and *southern*—*Atlantic* and *western*; whence designing men may endeavor to excite a belief that there is a real difference of local interests and views. One of the expedients of party to acquire influence within particular districts, is to misrepresent the opinions and aims of other districts. You cannot shield yourself too much against the jealousies and heart burnings which spring from these misrepresentations. They tend to render alien to each other those who ought to be bound together by fraternal affection. The inhabitants of our western country have lately had a useful lesson on this head. They have seen, in the negotiation by the executive—and in the unanimous ratification by the Senate—of the treaty with Spain, and in the universal satisfaction at that event throughout the United States, a decisive proof how unfounded were the suspicions propagated among them of a policy in the general government and in the Atlantic states, unfriendly to their interests in regard to the Mississippi. They have been witnesses to the formation of two treaties, that with Great Britain and that with Spain, which secure to them everything they could desire, in respect to our foreign relations, towards confirming their prosperity. Will it not be their wisdom to rely for the preservation of these advantages on the Union by which they were procured? Will they not henceforth be deaf to those advisers, if such they are, who would sever them from their brethren and connect them with aliens?

To the efficacy and permanency of your Union, a government for the whole is indispensable. No alliances, however strict, between the parts can be an adequate substitute. They must inevitably experience the infractions and interruptions which all alliances, in all times, have experienced. Sensible of this momentous truth, you have improved upon your first essay, by the adoption of a Constitution of government, better calculated than your former, for an intimate Union and for the efficacious management of your common concerns. This government, the offspring of our own choice, uninfluenced and unawed, adopted upon full investigation and mature deliberation, completely free in its principles, in the distribution of its powers, uniting security with energy, and containing within itself a provision for its own amendment, has a just claim to your confidence and your support. Respect for its authority, compliance with its laws, acquiescence in its measures, are duties enjoined by the fundamental maxims of true liberty. The basis of our political systems is the right of the people to make and to alter their constitutions of government.—But the Constitution which at

any time exists, until changed by an explicit and authentic act of the whole people, is sacredly obligatory upon all. The very idea of the power, and the right of the people to establish government, presupposes the duty of every individual to obey the established government.

All obstructions to the execution of the laws, all combinations and associations under whatever plausible character, with the real design to direct, control, counteract, or awe the regular deliberation and action of the constituted authorities, are destructive of this fundamental principle, and of fatal tendency. They serve to organize faction; to give it an artificial and extraordinary force; to put in the place of the delegated will of the nation the will of a party, often a small but artful and enterprising minority of the community; and, according to the alternate triumphs of different parties, to make the public administration the mirror of the ill concerted and incongruous projects of faction, rather than the organ of consistent and wholesome plans digested by common councils, and modified by mutual interests. However combinations or associations of the above description may now and then answer popular ends, they are likely, in the course of time and things, to become potent engines, by which cunning, ambitious, and unprincipled men will be enabled to subvert the power of the people, and to usurp for themselves the reins of government; destroying afterwards the very engines which have lifted them to unjust dominion.

Towards the preservation of your government and the permanency of your present happy state, it is requisite, not only that you steadily discountenance irregular opposition to its acknowledged authority but also that you resist with care the spirit of innovation upon its principles, however specious the pretext. One method of assault may be to effect, in the forms of the Constitution, alterations which will impair the energy of the system and thus to undermine what cannot be directly overthrown. In all the changes to which you may be invited, remember that time and habit are at least as necessary to fix the true character of governments as of other human institutions, that experience is the surest standard by which to test the real tendency of the existing constitution of a country, that facility in changes upon the credit of mere hypotheses and opinion exposes to perpetual change from the endless variety of hypotheses and opinion; and remember, especially, that for the efficient management of your common interests in a country so extensive as ours, a government of as much vigor as is consistent with the perfect security of liberty is indispensable; liberty itself will find in such a government, with powers properly distributed and adjusted, its surest guardian. It is indeed little else than a name, where the government is too feeble to withstand the enterprises of faction, to confine each member of the society

within the limits prescribed by the laws, and to maintain all in the secure and tranquil enjoyment of the rights of person and property.

I have already intimated to you the danger of parties in the state, with particular reference to the founding of them on geographical discriminations. Let me now take a more comprehensive view and warn you in the most solemn manner against the baneful effects of the spirit of party, generally.

This spirit, unfortunately, is inseparable from our nature, having its root in the strongest passions of the human mind. It exists under different shapes in all governments, more or less stifled, controlled, or repressed; but in those of the popular form it is seen in its greatest rankness, and is truly their worst enemy.

The alternate domination of one faction over another, sharpened by the spirit of revenge natural to party dissension, which in different ages and countries has perpetrated the most horrid enormities, is itself a frightful despotism.—But this leads at length to a more formal and permanent despotism. The disorders and miseries which result gradually incline the minds of men to seek security and repose in the absolute power of an individual; and, sooner or later, the chief of some prevailing faction, more able or more fortunate than his competitors, turns this disposition to the purpose of his own elevation on the ruins of public liberty.

Without looking forward to an extremity of this kind, (which nevertheless ought not to be entirely out of sight) the common and continual mischiefs of the spirit of party are sufficient to make it in the interest and duty of a wise people to discourage and restrain it.

It serves always to distract the public councils, and enfeeble the public administration. It agitates the community with ill founded jealousies and false alarms, kindles the animosity of one part against another, ferments occasional riot and insurrection. It opens the door to foreign influence and corruption, which finds a facilitated access to the government itself through the channels of party passions. Thus the policy and the will of one country are subjected to the policy and will of another.

There is an opinion that parties in free countries are useful checks upon the administration of the government, and serve to keep alive the spirit of liberty. This within certain limits is probably true—and in governments of a monarchical cast, patriotism may look with indulgence, if not with favor, upon the spirit of party. But in those of the popular character, in governments purely elective, it is a spirit not to be encouraged. From their natural tendency, it is certain there will always be enough of that spirit for every salutary purpose. And there being constant danger of excess, the effort ought to be by

force of public opinion to mitigate and assuage it. A fire not to be quenched, it demands a uniform vigilance to prevent it bursting into a flame, lest instead of warming, it should consume.

It is important likewise, that the habits of thinking in a free country should inspire caution in those entrusted with its administration to confine themselves within their respective constitutional spheres, avoiding in the exercise of the powers of one department to encroach upon another. The spirit of encroachment tends to consolidate the powers of all the departments in one, and thus to create, whatever the form of government, a real despotism. A just estimate of that love of power and proneness to abuse it which predominates in the human heart is sufficient to satisfy us of the truth of this position. The necessity of reciprocal checks in the exercise of political power, by dividing and distributing it into different depositories, and constituting each the guardian of the public weal against invasions of the others, has been evinced by experiments ancient and modern, some of them in our country and under our own eyes. To preserve them must be as necessary as to institute them. If, in the opinion of the people, the distribution or modification of the constitutional powers be in any particular wrong, let it be corrected by an amendment in the way which the Constitution designates. But let there be no change by usurpation; for though this, in one instance, may be the instrument of good, it is the customary weapon by which free governments are destroyed. The precedent must always greatly overbalance in permanent evil any partial or transient benefit which the use can at any time yield.

Of all the dispositions and habits which lead to political prosperity, religion and morality are indispensable supports. In vain would that man claim the tribute of patriotism, who should labor to subvert these great pillars of human happiness, these firmest props of the duties of men and citizens. The mere politician, equally with the pious man, ought to respect and to cherish them. A volume could not trace all their connections with private and public felicity. Let it simply be asked where is the security for property, for reputation, for life, if the sense of religious obligation *desert* the oaths, which are the instruments of investigation in courts of justice? And let us with caution indulge the supposition that morality can be maintained without religion. Whatever may be conceded to the influence of refined education on minds of peculiar structure, reason and experience both forbid us to expect that national morality can prevail in exclusion of religious principle.

It is substantially true, that virtue or morality is a necessary spring of popular government. The rule, indeed, extends with more or less force to every species of free government. Who that is a sincere friend to it can look

with indifference upon attempts to shake the foundation of the fabric?

Promote, then, as an object of primary importance, institutions for the general diffusion of knowledge. In proportion as the structure of a government gives force to public opinion, it is essential that the public opinion should be enlightened.

As a very important source of strength and security, cherish public credit. One method of preserving it is to use it as sparingly as possible, avoiding occasions of expense by cultivating peace, but remembering, also, that timely disbursements, to prepare for danger, frequently prevent much greater disbursements to repel it; avoiding likewise the accumulation of debt, not only by shunning occasions of expense, but by vigorous exertions in time of peace to discharge the debts which unavoidable wars may have occasioned, not ungenerously throwing upon posterity the burden which we ourselves ought to bear. The execution of these maxims belongs to your representatives, but it is necessary that public opinion should cooperate. To facilitate to them the performance of their duty, it is essential that you should practically bear in mind that towards the payment of debts there must be revenue; that to have revenue there must be taxes; that no taxes can be devised which are not more or less inconvenient and unpleasant; that the intrinsic embarrassment inseparable from the selection of the proper objects (which is always a choice of difficulties) ought to be a decisive motive for a candid construction of the conduct of the government in making it, and for a spirit of acquiescence in the measures for obtaining revenue, which the public exigencies may at any time dictate.

Observe good faith and justice towards all nations; cultivate peace and harmony with all; religion and morality enjoin this conduct, and can it be that good policy does not equally enjoin it? It will be worthy of a free, enlightened, and, at no distant period, a great nation, to give to mankind the magnanimous and too novel example of a people always guided by an exalted justice and benevolence. Who can doubt but, in the course of time and things the fruits of such a plan would richly repay any temporary advantages which might be lost by a steady adherence to it? Can it be that Providence has not connected the permanent felicity of a nation with its virtue? The experiment, at least, is recommended by every sentiment which ennobles human nature. Alas! is it rendered impossible by its vices?

In the execution of such a plan nothing is more essential than that permanent, inveterate antipathies against particular nations and passionate attachment for others should be excluded and that in place of them just and amicable feelings towards all should be cultivated. The nation which indulges towards another an habitual hatred, or an habitual fondness, is in some degree

a slave. It is a slave to its animosity, or to its affection, either of which is sufficient to lead it astray from its duty and its interest. Antipathy in one nation against another disposes each more readily to offer insult and injury, to lay hold of slight causes of umbrage, and to be haughty and intractable when accidental or trifling occasions of dispute occur. Hence frequent collisions, obstinate, envenomed, and bloody contests. The nation, prompted by ill will and resentment, sometimes impels to war the government, contrary to the best calculations of policy. The government sometimes participates in the national propensity and adopts through passion what reason would reject; at other times, it makes the animosity of the nation's subservient to projects of hostility, instigated by pride, ambition and other sinister and pernicious motives. The peace often, sometimes perhaps the liberty of nations, has been the victim.

So likewise, a passionate attachment of one nation for another produces a variety of evils. Sympathy for the favorite nation, facilitating the illusion of an imaginary common interest in cases where no real common interest exists and infusing into one the enmities of the other, betrays the former into a participation in the quarrels and wars of the latter, without adequate inducements or justifications. It leads also to concessions, to the favorite nation of privileges denied to others, which is apt doubly to injure the nation making the concessions, by unnecessarily parting with what ought to have been retained and by exciting jealousy, ill will, and a disposition to retaliate in the parties from whom equal privileges are withheld. And it gives to ambitious, corrupted or deluded citizens (who devote themselves to the favorite nation) facility to betray or sacrifice the interests of their own country, without odium, sometimes even with popularity gilding with the appearances of virtuous sense of obligation, a commendable deference for public opinion, or a laudable zeal for public good, the base or foolish compliances of ambition, corruption, or infatuation.

As avenues to foreign influence in innumerable ways, such attachments are particularly alarming to the truly enlightened and independent patriot. How many opportunities do they afford to tamper with domestic factions, to practice the arts of seduction, to mislead public opinion, to influence or awe the public councils! Such an attachment of a small or weak towards a great and powerful nation, dooms the former to be the satellite of the latter.

Against the insidious wiles of foreign influence (I conjure you to believe me, fellow citizens) the jealousy of a free people ought to be constantly awake, since history and experience prove, that foreign influence is one of the most baneful foes of republican government. But that jealousy to be useful must be impartial; else it becomes the

instrument of the very influence to be avoided, instead of a defense against it. Excessive partiality for one foreign nation and excessive dislike for another cause those whom they actuate to see danger only on one side, and serve to veil and even second the arts of influence on the other. Real patriots, who may resist the intrigues of the favorite, are liable to become suspected and odious, while its tools and dupes usurp the applause and confidence of the people to surrender their interests.

The great rule of conduct for us in regard to foreign nations is, in extending our commercial relations, to have with them as little political connection as possible. So far as we have already formed engagements, let them be fulfilled with perfect good faith. Here let us stop.

Europe has a set of primary interests, which to us have none or a very remote relation. Hence, she must be engaged in frequent controversies, the causes of which are essentially foreign to our concerns. Hence therefore it must be unwise in us to implicate ourselves, by artificial ties, in the ordinary vicissitudes of her politics or the ordinary combinations and collisions of her friendships or enmities.

Our detached and distant situation invites and enables us to pursue a different course. If we remain one people, under an efficient government, the period is not far off when we may defy material injury from external annoyance; when we may take such an attitude as will cause the neutrality we may at any time resolve upon to be scrupulously respected; when belligerent nations, under the impossibility of making acquisitions upon us, will not lightly hazard the giving us provocation, when we may choose peace or war, as our interest guided by justice shall counsel.

Why forgo the advantages of so peculiar a situation? Why quit our own to stand upon foreign ground? Why, by interweaving our destiny with that of any part of Europe, entangle our peace and prosperity in the toils of European ambition, rivalry, interest, humor, or caprice?

It is our true policy to steer clear of permanent alliance with any portion of the foreign world—so far, I mean, as we are now at liberty to do it, for let me not be understood as capable of patronizing infidelity to existing engagements. (I hold the maxim no less applicable to public than private affairs, that honesty is always the best policy)—I repeat it, therefore, let those engagements be observed in their genuine sense. But in my opinion, it is unnecessary, and would be unwise to extend them.

Taking care always to keep ourselves, by suitable establishments, on a respectable defensive posture, we may safely trust to temporary alliances for extraordinary emergencies.

Harmony, liberal intercourse with all nations, are recommended by policy, humanity, and interest. But even our

commercial policy should hold an equal and impartial hand: neither seeking nor granting exclusive favors or preferences; consulting the natural course of things; diffusing and diversifying by gentle means the streams of commerce but forcing nothing; establishing with powers so disposed, in order to give trade a stable course—in order to give to trade a stable course, to define the rights of our merchants, and to enable the government to support them, conventional rules of intercourse, the best that present circumstances and mutual opinion will permit, but temporary, and liable to be from time to time abandoned or varied as experience and circumstances shall dictate; constantly keeping in view, that it is folly in one nation to look for disinterested favors from another—that it must pay with a portion of its independence for whatever it may accept under that character—that by such acceptance, it may place itself in the condition of having given equivalents for nominal favors and yet of being reproached with ingratitude for not giving more. There can be no greater error than to expect or calculate upon real favors from nation to nation. It is an illusion which experience must cure, which a just pride ought to discard.

In offering to you, my countrymen, these counsels of an old and affectionate friend, I dare not hope they will make the strong and lasting impression I could wish—that they will control the usual current of the passions or prevent our nation from running the course which has hitherto marked the destiny of nations. But if I may even flatter myself that they may be productive of some partial benefit, some occasional good, that they may now and then recur to moderate the fury of party spirit, to warn against the mischiefs of foreign intrigue, to guard against the impostures of pretended patriotism—this hope will be a full recompense for the solicitude for your welfare by which they have been dictated.

How far in the discharge of my official duties, I have been guided by the principles which have been delineated, the public records and other evidences of my conduct must witness to you and to the world. To myself, the assurance of my own conscience is, that I have, at least, believed myself to be guided by them.

In relation to the still subsisting war in Europe, my proclamation of the 22d of April 1793 is the index to my plan. Sanctioned by your approving voice and by that of your representatives in both houses of Congress, the spirit of that measure has continually governed me, uninfluenced by any attempts to deter or divert me from it.

After deliberate examination with the aid of the best lights I could obtain, I was well satisfied that our country, under all the circumstances of the case, had a right to take, and was bound in duty and interest to take—a

neutral position. Having taken it, I determined, as far as should depend upon me, to maintain it with moderation, perseverance and firmness.

The considerations which respect the right to hold this conduct it is not necessary on this occasion to detail. I will only observe that, according to my understanding of the matter, that right, so far from being denied by any of the belligerent powers, has been virtually admitted by all.

The duty of holding a neutral conduct may be inferred, without anything more, from the obligation which justice and humanity impose on every nation, in cases in which it is free to act, to maintain inviolate the relations of peace and amity towards other nations.

The inducements of interest for observing that conduct will best be referred to your own reflections and experience. With me, a predominant motive has been to endeavor to gain time to our country to settle and mature its yet recent institutions and to progress, without interruption to that degree of strength and consistency which is necessary to give it, humanly speaking, the command of its own fortunes.

Though in reviewing the incidents of my administration I am unconscious of intentional error, I am nevertheless too sensible of my defects not to think it probable that I may have committed many errors. Whatever they may be, I fervently beseech the Almighty to avert or mitigate the evils to which they may tend. I shall also carry with me the hope that my country will never cease to view them with indulgence and that, after forty-five years of my life dedicated to its service with an upright zeal, the faults of incompetent abilities will be consigned to oblivion, as myself must soon be to the mansions of rest.

Relying on its kindness in this as in other things, and actuated by that fervent love towards it which is so natural to a man who views in it the native soil of himself and his progenitors for several generations, I anticipate with pleasing expectation that retreat, in which I promise myself to realize without alloy the sweet enjoyment of partaking in the midst of my fellow citizens the benign influence of good laws under a free government—the ever favorite object of my heart, and the happy reward, as I trust, of our mutual cares, labors and dangers.

GEO. WASHINGTON.

UNITED STATES,

17th September, 1796.

Mr. THURMOND addressed the Chair. The PRESIDING OFFICER (Mr. BURNS). The Senator from South Carolina.

COMMENDING SENATOR VOINOVICH

Mr. THURMOND. Mr. President, I wish to commend the able Senator for the excellent manner in which he just presented Washington's Farewell Address.

The PRESIDING OFFICER. The Senator from South Carolina is recognized. Mr. THURMOND. I thank the Chair.

(The remarks of Mr. THURMOND pertaining to the introduction of S. 431, S. 432, and S. 433 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. THURMOND. Mr. President, I yield the floor.

MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 3 p.m., with the time being divided between the majority leader and the Senator from Illinois, Mr. DURBIN, or their designee.

In my capacity as a Senator from Montana, I suggest the absence of a quorum. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. BYRD. Mr. President, is the Senate now in morning business?

The PRESIDING OFFICER. The Senator is correct.

Mr. BYRD. What is the length of time Senators are permitted to speak?

The PRESIDING OFFICER. There is no time limit.

Mr. BYRD. I thank the Chair.

The PRESIDING OFFICER (Mr. KYL). The Chair advises the Senator from West Virginia that the Senator from Illinois controls the time for 1 hour.

Mr. BYRD. Very well. I thank the Chair.

RAYMOND SCOTT BATES

Mr. BYRD. Mr. President, today I speak in memory of Raymond Scott Bates, one of the dear members of our own Senate family who recently departed this life.

Let Fate do her worst, there are relics of joy,
Bright dreams of the past, which she cannot
destroy;

Which come, in the night-time of sorrow and
care,

And bring back the features that joy used to
wear.

Long, long be my heart with such memories
filled,

Like the vase in which roses have once been
distilled,

You may break, you may shatter the vase, if
you will,

But the scent of the roses will hang round it
still.

These words, written by Thomas Moore, are so fitting this afternoon, as I, in my limited and feeble way, attempt to pay honor and tribute to the life of Scott Bates, a man whom we all admired and respected, and who was taken from our midst, virtually in the twinkling of an eye, and without warn-

ing. It was on the evening of February 5 that the pallid messenger beckoned Scott to depart this life. We can believe that he awakened to see a more glorious sunrise with unimaginable splendor above a celestial horizon, and that he yet remembers us as we remember him, for we have the consolation that has come down to us from the lips of that ancient man of Uz, whose name was Job, "Oh that my words were written in a book and engraved with an iron pen, and lead in the rock forever, for I know that my Redeemer liveth and that in the latter day He shall stand upon the earth."

When Erma and I lost our dear grandson, Michael, now almost 17 years ago, I felt that Michael was resting and at peace in the arms of God, and deep within my soul I was aware that Michael knew of my grief. He, too, was taken from us suddenly and without warning, and he left us without a wave of a hand or without saying goodbye, and so Erma and I know what this family is going through. We, too, have walked through the valley of the shadow of death. And Erma and I join in saying to Scott's family today, Scott knows of your grief.

I have known Scott Bates since the very first day that he became a member of the Senate family. I watched him grow. I watched him as he increased in knowledge and in his love for the Senate. Often, when I was the Democratic Leader in the Senate, and many times since, I had the occasion to call upon Scott for help. He was always ready, always courteous, always accommodating. From time to time, we talked about the Senate and how it was different from what it used to be. He was a Senate employee whose time in the Senate extended beyond the tenure of many of the Members of this body, and, like many of the men and women who have toiled here in the Senate over the years, Scott appreciated the Senate, loved it, and understood it, better even than many of its own Members loved and understood it. His contributions to the Senate have been many and notable.

Although public service in general and careers in Washington have, in some quarters, fallen out of favor, I believe that Scott Bates' life and work experience present a compelling case against the current cynicism about the many fine people who serve in the Senate in various capacities. Their names are never in the newspapers, they experience few public kudos, and yet they work as long hours, probably longer, than we do. They are dedicated, they are capable, they are patriotic individuals who represent the best that America has to offer from all over this Nation.

Scott was one of those rare individuals about whom no unkind and ungenerous word was ever, ever spoken by anyone who knew him.

He personified what we politicians like to refer to as "family values." He lived them. He was active in his

church, and he loved his wife, Ricki, and their three lovely children—Lisa, Lori, and Paul.

As all of us know, one of Scott's official duties as legislative clerk was to call the roll of the Senate during votes and during quorum calls. Thousands of times—thousands of times, I have heard him call my name: "Mr. Byrd". Now the thread of life is cut; the immortal is separated from the mortal; and that rich voice which was wont to fill the walls of the Senate Chamber, is hushed in eternal silence. But while the portals of the tomb have closed upon the remains of a gifted member of the Senate family, the grave is powerless to hold in its bosom the spirit of man.

In the words of William Jennings Bryan, "if the Father stoops to give to the rose bush, whose withered blossoms float upon the autumn breeze, the sweet assurance of another springtime, will he refuse the words of hope to the sons of men when the frosts of winter come? If matter, mute and inanimate, though changed into a multitude of forms can never be destroyed, will the imperial spirit of man suffer annihilation when it has paid a brief visit like a royal guest to this tenement of clay? No, I am sure that He who, notwithstanding His apparent prodigality, created nothing without a purpose, and wasted not a single atom in all His creation, has made provision for a future life in which man's universal longing for immortality will find its realization. I am sure that we shall live again," as sure as I am that we live today, and I am also sure that someday I shall hear the voice of a new angel, calling my name again, this time on the heavenly rolls: "Mr. Byrd."

To Lisa, to Lori and to Paul, I think your father would have wanted me to say, live as he taught you to live and strive always to make him proud, because he knows.

On Saturday afternoon, we gathered in a church in Vienna. It was a large church, a Presbyterian Church. Our Senate Chaplain was there. He had arranged the program, and he did a marvelous job. The Vice President came, the President of the Senate, the head of our Senate family. Senator BYRON DORGAN was there. Senator CHUCK ROBB was there. Senator GREGG was there. Former Senator Robert Dole was there. And there was a host of friends. The church was filled. The balcony was filled. It was a great outpouring of generous tribute and love for Scott Bates.

Although I had known Scott for 30 years, I had never known him as I came to know him last Saturday afternoon when I heard Lisa and Lori and Paul speak of their father. Then and only then did I realize what a truly great family this was. Only then did I realize what a father's love could be for his two daughters and his son. And only then did I realize what a deep and abiding and living love Scott's children had for him. His wife Ricki was there. She had been brought in, and she lay there

on a cot, she having not yet recovered from the injuries she sustained when the accident occurred.

It was evident that this was a family in which there was real love and in which the presence of God made itself manifest, because this was not something that just came about overnight. I will never forget the sight of those children speaking about their father and their mother and then seeing them, after they had spoken to the audience, go to their mother and kiss her on the cheek. Scott must have been pleased with it all.

I count it as a great honor to have been invited by Scott's family to speak during that hour. To Lisa and Lori and Paul, I think your father would want me to say to you, live as he taught you to live and strive always to make him proud. He knows.

To his legion of friends, I say that Scott's life was a blessing, a blessing to each of us who knew him. May we strive to be like him that we may be more worthy for, indeed, here was a man. When comes such another?

To his wife Ricki, Erma and I say, the love of your children and your friends and the mercies of an omnipotent God can, over the passage of time, be an anodyne to your grief. Be assured, Ricki, love is timeless, love is endless and Scott will be with you always.

And sometimes in the quietness of an evening or in the clear silence, as you gaze upon the lustre of the Morning Star, you may hear someone whisper:

If I should ever leave you whom I love
To go along the silent way, grieve not
Nor speak of me with tears,
But laugh and talk of me
As if I were beside you, for who knows
But that I shall be, oftentime?

I'd come, I'd come, could I but find a way,
But would not tears and grief be barriers?

And when you hear a song I used to sing
Or see a bird I love,
Let not the thought of me be sad,
For I am loving you, just as I always have.
You were so good to me,
So many things I wanted still to do,
So many, many things to say to you.

Remember that I did not fear,
It was just leaving you, I could not bear to
face;

We cannot see Beyond . . . But this I know:
I loved you so.

'Twas Heaven here with you.

Mr. DORGAN addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, let me, on behalf of the entire Senate, thank the distinguished Senator, Mr. BYRD, for those wonderful words. I attended the memorial service for Scott Bates on Saturday and heard Senator BYRD deliver those reflections. And I guess there is no one in the Senate who could have done what Senator BYRD regularly does in expressing the collective will of the Senate.

With the passing of Scott, we lost a wonderful member of the Senate family. And Senator BYRD, not just on this occasion but on virtually all occasions

like this, reaches out and touches others in a very special way.

I recall when my daughter died that Senator BYRD reached out to me and offered me a piece of prose that still sits in my top desk drawer. Senator HATCH sent me a white leather-bound Bible that still rests behind my desk for reference. That is what the Senate is like. It is not so much about Republicans and Democrats; it is about people who work together, who have a passionate interest in serving this country.

And it is not just those who are elected who have that passionate interest. There are a myriad of wonderful, qualified, committed, dedicated staff persons who work in this building who make this democracy of ours work. And losing Scott Bates was a tragic loss for all of us.

Frankly, I did not know Scott particularly well. I knew him as a fun person to banter and visit and joke with from time to time and knew his sonorous voice as he called the roll. And I knew him as a very special member of the Senate family. But I believe on Saturday I got to know him well through his family.

Senator BYRD described the memorial service. I would say, as just one visitor to that memorial service, how wonderful it would be if all of us could leave such a family behind, as Scott did. His two daughters and the son who spoke at that memorial service are remarkable young people who will contribute much to our country. That is the lasting tribute to Scott.

So let me again, on behalf of the entire Senate, thank Senator BYRD for his presentation on Saturday. And, coincidentally, I had asked him this morning if I could have a copy of his presentation. He said he would be putting it in the Senate RECORD. Now all of the Senators will be able to share, with him, the words that he offered on our behalf on Saturday.

Mr. President, I would like, by consent, to be able to be recognized to speak on a different subject.

The PRESIDING OFFICER. The Senator is advised there are 35 minutes remaining on the Senator's side.

THE SENATE PROCESS AND FEDERAL BUDGET SURPLUSES

Mr. DORGAN. Mr. President, I think you can hear a collective sigh of relief around the Capitol Building now that the impeachment trial—only the second in the history of our country—is complete and we can turn our thoughts to other issues, turn our energies to other enterprises.

Most of us seek election to the U.S. Senate—whether it be from West Virginia or North Dakota or Arizona—because we feel passionately about public issues. And there are many, many public issues—both here at home and around the world—that should and will command our attention.

Recently I told my colleagues a short story about Teddy Roosevelt. I want to

talk today about a couple of issues, and it is probably appropriate to start with Teddy Roosevelt. Teddy Roosevelt lost both his wife and his mother on the same day in different rooms of his home. And he was so stricken with grief that he decided to do something different with his life. He decided to go west for some while and see if he could find himself again.

Teddy Roosevelt had some resources, so when he made his decision to go west, he decided to go to the Badlands of North Dakota. He knew that in the Badlands there were cowboys, and so, I am told, he went to Brooks Brothers and ordered a cowboy suit to be made for him. And Brooks Brothers made a cowboy suit for Teddy Roosevelt. He got a bowie knife, a sterling silver bowie knife with an ivory handle, I understand, that had his name on it, and it said "Tiffany's." He bought it at Tiffany's. And he got silver spurs, and on the rowel of each spur were engraved his initials.

So when the train stopped in North Dakota for Teddy Roosevelt to disembark, to go to live in the Badlands and raise horses and cattle, this fellow stepped off the train wearing his Brooks Brothers cowboy suit and a pair of rimless glasses, with his bowie knife from "Tiffany's," and his sterling silver engraved spurs.

The cowboys in the Badlands thought, "What on Earth has landed here in Medora, ND"—this man they called four-eyes, with his rimless glasses and his funny Brooks Brothers cowboy suit and his sterling silver spurs. They made fun of him, poked fun at the way he looked. And then, as the story goes, in the Badlands saloon in Medora, ND, one unlucky cowboy goaded him too far and wanted to pick a fight with him.

It took only a matter of minutes, apparently, for this rather unusual looking character from the East, with his Brooks Brothers cowboy suit, to knock this local cowboy senseless in the Badlands saloon. Then the rest of the cowboys had a different impression of this fellow. Yes, he looked a little different, but he had some real mettle. They knew a little something about him. And Teddy Roosevelt, of course, went on to carve a rather rich chapter of his life ranching in the Badlands of North Dakota.

I told my colleagues that story some while ago because we are all kind of different. We gather here in the U.S. Senate, 100 of us, coming from different parts of the country with different philosophies. We even dress differently from time to time. And so we come to this place, this place of debate in our democracy, from all kinds of different perspectives. But we respect each other. We do not make fun of each other. We know that each arrives here with a passion and a mission on behalf of those who sent us here to do the best we can for this country.

We do not settle our disputes with saloon fights. We do it through debate.

We respect the other person's view. We might disagree with it in a very aggressive way, but we respect each other. And through the process of public debate, the give and take, the process of democracy works.

Now we turn our attention from an impeachment trial, which I think was difficult for every single Member of this Senate and for the country, to other issues—health care, a Patients' Bill of Rights; education and how we improve our schools; what we do to strengthen Social Security and Medicare; and more.

There are two enduring truths about the last quarter century for everyone who serves in the Senate. One is that we have experienced a cold war that consumed a substantial amount of our energy, time, and resources; the second is that we have had crippling Federal budget deficits. Both of those enduring truths have now changed. The cold war is over and the Federal deficits are no more. The Soviet Union is gone, the cold war is over. That changes a great deal of our international issues and attention. The crippling Federal budget deficits that used to grow year after year are gone and we now see predictions and projections that year after year we will experience Federal budget surpluses.

Since those two enduring truths have changed, I want to focus on one aspect of them today, and that is the reason I came to the Senate floor. We have people who now say that because the Federal budget deficits are going to turn into Federal budget surpluses, let us very quickly propose returning \$500 or \$600 billion in tax cuts to the American people over the next 10 years.

I want to talk about the merit of that. It would be a tragic mistake, in my judgment, for this Congress to decide that—at the first sight of budget surpluses, after a long, dark period of mushrooming Federal budget deficits that have accumulated to a \$5.5 trillion Federal debt—we should try to outbid each other on who can return more tax money to the American taxpayer.

I think the greatest gift that we could give to America's children would be to decide that when we turn the corner and experience real budget surpluses, we begin during good times to reduce the Federal debt. There can be no greater gift to America's children than for us, during good economic times, to begin reducing the crushing Federal debt. That debt, as I said, stands at \$5.5 trillion.

I have a chart that shows what kind of surpluses we are expected to experience over the next 10 years, recognizing of course that none of us can know with certainty what will happen next week, next month, or next year. The budget surplus, which is the top line of this chart—and these figures came from the Congressional Budget Office—amounts to more than \$2.5 trillion over 10 years. That doesn't mean very much to me because that is not a real surplus. It is a surplus that is made pos-

sible by the use of the Social Security trust funds which, in my judgment, cannot be used to calculate a budget surplus. The second line of the chart calculates what happens to our surplus if you take the Social Security trust funds and set it aside—which ought to be done—for the purpose of saving it for the time when it is needed as the baby boomers will retire. The real surplus, then, begins in the year 2001.

In 1993, when President Clinton took office, he inherited a budget deficit that year of about \$300 billion. That has turned around dramatically. We have in this country experienced wonderful news with an improving economic outlook in this country. So we have gone from about a \$300 billion deficit to a \$7 billion deficit in the upcoming fiscal year—almost a balanced budget. The next year the budget will be in balance, even without counting Social Security trust funds, and that is the prediction for every year thereafter for the following eight years.

The question is, What do we do as a result of that? We have people rushing through the door saying, let me propose a \$650 billion income tax cut. Some say a 10-percent across-the-board income tax cut. Aside from the merits on that issue, I happen to think that the crushing tax burden is not the income tax, but the increasing payroll taxes that American workers have had to pay. Most working families in this country pay more in payroll taxes than they pay in Federal income taxes.

My point is this: As we begin to construct a new fiscal policy rooted with the understanding that we no longer face crippling budget deficits, let us start to think about our priorities. The easy politics would be to say, let's just give a lot of tax cuts, let's talk about across-the-board tax cuts. But a much more responsible approach, in my judgment, would be to say during good economic times it is required for us to begin the long process of reducing the Federal debt. Now, if that is a priority—and I hope it will be for the majority of the Members of the Senate, reducing America's debt during good economic times—that should be, in my judgment, complemented by our understanding that the Social Security system also needs shoring up. We must reserve some of our projected surplus to make that system whole and well and solvent for the long term.

I want to make a point about Social Security because some people wring their hands and gnash their teeth because of the problems we have with Social Security. These are not big problems. The Social Security problem—to the extent there is one—is born of success. One hundred years ago, you were expected to live to age 48 in this country; today, the life expectancy is almost 78. We have increased life expectancy by 30 years. People live longer and better lives for a lot of reasons. That is success. Does that cause some strain to the Social Security system? Of course it does, but it is born of suc-

cess. And let us not wring our hands about that. We can easily resolve these issues.

Third, in addition to reducing the Federal debt during good economic times with this budget surplus and making certain that we are responsible for making Social Security solvent for the long term, the proposal that the President and some others have offered, to use any additional tax cuts outside of that for the purpose of providing incentive for savings, makes a lot of sense to me. Encouraging personal private savings in this country, which the President proposed through USA accounts—and there are other approaches—seems to me to make a lot of sense in terms of creating the foundation for long-term, solid economic growth for the next two, three and four decades.

Having said all that, let me make this point: We in this country have the strongest economy in the world right now. I studied economics in college and then I taught economics in college very briefly. That experience hasn't hindered me, but nonetheless I taught some economics. One of the things you teach in economics is that there are two principles you strive to achieve in an economy—stable prices and full employment.

In our country's current economy, we have virtually no inflation and we have nearly full employment. And we—at a time when the Asian economy is weak, when the Russian economy has collapsed, when the Brazilian economy is weak—have the strongest economy in the world. Is it by accident? I don't think so. I don't happen to think that Republicans or Democrats have the answer either. It is not as if, somewhere down in the engine room of this ship of state, there is an engine with dials and knobs and a lever, and if we can just find the right dials and knobs and levers to pull and push, the right amount of tax cuts, the right amount of spending, the right amount of M1, that somehow the ship of state will do fine. I don't happen to think the engine room works that way.

Economies have everything to do with the confidence of the people. When people are confident about the future, they make individual decisions such as: I will buy a car; I will buy a house; I will make this investment because I am confident about the future. They make those kinds of decisions based on their confidence. That creates the foundation for an economy.

When people are not confident about the future, they say, I will not make that purchase; I will defer buying an automobile; I will defer buying this home because I am not so confident about the future.

So it is the confidence of the people upon which this economy rests. All of the indices show the American people are confident about the future because the President and the Congress together—I am talking about all Members of the Congress coming together—

have made some good decisions in recent years, decisions that say deficits matter, and we are going to tame them.

That isn't to say that we shouldn't continue to invest—even as we tame the Federal budget deficits. We are going to invest in the kinds of things that will make this a bigger, better, stronger country. We had, as the Senator from West Virginia will recall, a vigorous debate in the last Congress about a highway bill. Some around here were just wringing their hands about the amount of money we were going to spend on highways.

The money that we are going to spend on highways, coming from the gasoline tax collected at the gas pump when people fill up their cars with gasoline, is going to go into improving America's infrastructure—building roads, repairing bridges, and generally making us a better country. It is an investment in our country, just as it is an investment in young people to improve schools. It is an investment in our future. Ben Franklin once said, "Anyone who puts their purse in their head will never lose their purse." That is what education is about. Education is an investment in our children.

We have made a lot of thoughtful decisions in the last 6 or 8 years; frankly, it can go well beyond that. We can go back to the 1950s when we talk about roads and think of the decision that President Eisenhower and the Republicans and Democrats in Congress made about an interstate highway system. You could ask yourself, could anybody in this country justify building a four-lane interstate between Fargo, ND, and Beach, ND, all those hundreds of miles where there aren't a great deal of people? You could have had one of the watchdog organizations pull that apart in the fifties and say, "Look what they are spending where not many people are living." But President Eisenhower and Congress said that we are going to link this country together with the interstate highway system. Transportation is universal.

We have done a lot of good things, and a lot is left to be done. As we deal with fiscal policy and especially with the question of tax cuts and budget surpluses, I hope we can make thoughtful and good decisions for the long-term future of this country. I think very strongly that the first priority is for us, during good economic times, to reduce the Federal debt. The second priority is to say we owe it to the Social Security system to make it whole. The third priority says let's encourage private savings through tax cuts because that strengthens America in the future as well.

Mr. BYRD. Will the distinguished Senator yield?

Mr. DORGAN. Of course.

Mr. BYRD. Mr. President, I thank the distinguished Senator for his comments. They are timely and they are very persuasive to me. I join with him in expressing hope that we will apply

these surpluses to reducing the national debt—after, of course, shoring up Social Security. And we have to think of Medicare, also.

I have been in politics now 53 years. The easiest vote that I ever cast was a vote to cut taxes. It didn't require any courage on my part. And likewise, one of the most difficult votes is a vote to increase taxes. We have to do that from time to time.

Now, if Congress passes legislation to provide for tax cuts—and there may be some areas of tax cuts that I can very well support—but generally speaking, if we do, of course, the legislation that Congress enacts to do that would be permanent legislation, will it not, until changed? So if after a while—not 10 years hence, as the distinguished Senator has shown on his graph, but 5 years hence, or 4 years hence, 3 years hence—we hit upon hard times, then what? Would the reduced taxes continue, unless Congress legislated to increase them again? Would they, may I ask the Senator?

Mr. DORGAN. The answer, I say, to that is once you change the Tax Code, that change is generally permanent unless altered. We have had the experience before of a very aggressive appetite to reduce taxes, only to discover that we run into a recession, experience very significant Federal budget deficits, and then the confidence of the people about the future tends to erode and you have a further economic contraction.

I say to the Senator from West Virginia, one of the things that I think is very important is to the extent that there would be tax cuts following a reduction in Federal debt and shoring up Social Security, I hope that it will be triggered by the actual experience of the surplus. If you don't have a mechanism to trigger the tax cuts, what will happen ultimately will be an economic slowdown—nobody has repealed the business cycle—and experience significant budget deficits.

Mr. BYRD. Then it would be incumbent upon us to make difficult decisions and act to increase the revenue again.

Well, I join with the Senator. I think he performs a great service in calling to our attention and to the attention of the American people the options we face. I hope that Congress will think long and carefully about what we do. We are in a happy situation, but who knows how long the situation will remain happy. I see Alan Greenspan down in that engine room, and he is entitled to a good many compliments from all of us for the good work that he has done, the vision that he has displayed. But I join with the Senator and I hope he will help to lead us as we move forward in the coming days and use his good economics. I think I had about one semester of economics when I was in high school, and that is about it. But the Senator from North Dakota has had excellent training, a fine education in that field. I am going to con-

tinue to listen to him and look to him for leadership as we go forward. I thank him very much.

Mr. DORGAN. Mr. President, I thank the Senator from West Virginia. I raise this issue today only because it will be one of perhaps five or six significant issues we will debate in the coming months. I do not think that my idea is exclusively good and that there are no other good ideas out there. I have great respect for others here who might disagree strongly with my view on these issues. I want to, as we begin this debate, at least stake out the ground that some of us would feel strongly about—debt reduction and other responsible actions in fiscal policy.

I look forward to this. This has been a tough 6 or 7 weeks as we have started this session because of the impeachment trial. Most of us come here relishing the idea and fostering the appetite for debate about the public issues that really matter to this country in economics, health care, and education. So I look forward to it in the coming days and weeks.

Mr. BYRD. Mr. President, will the Senator yield?

Mr. DORGAN. Yes.

Mr. BYRD. I don't want to prolong this, but would he respond to this question: How do our massive trade deficits play into this whole equation?

Mr. DORGAN. Well, as the Senator knows, I have felt very strongly about our trade deficits. The one area of our economic performance that is very troubling is the area of trade indebtedness that continues now to mushroom. In fact, just in the last week, we saw an announcement that we have experienced the largest trade deficit in the country's history. I am particularly concerned about our merchandise deficits, because that reflects the deficits in terms of the goods that you produce, not services and because it is an indicator of the health of the manufacturing economy.

I don't think you can remain a world economic power unless you have a vibrant, strong manufacturing sector. I am very concerned about the trade deficits, and I have spent a great deal of time talking to our Trade Ambassador and this administration.

I think our trade policies need adjustment. It is not that I don't believe we shouldn't have expanded trade around the world; of course we should. But this country needs to stand up for its own economic interests in a thoughtful and useful way. We need to stand up for our interests with respect to the Chinese, the Japanese, the Europeans, and others to say that our market is open to your goods, it is wide open, but only on the condition that trade between our country and yours is fair.

During the first 25 years after the Second World War, we could have foreign policy masquerading as trade policy, or the reverse, and we could beat anybody on the globe in international trade with one hand tied behind our

back. But that has changed. We face formidable competitors in international trade. And the corporations who do the business around this world now separate themselves from nationalist interests, and they are simply interested in finding out where they can produce the cheapest and where they can sell for the best price. Often that mismatch means you can produce more cheaply if you find a Third World country in which you can produce and dump chemicals into the streams, pollutants into the air, and pay kids 14 cents an hour. You don't have all of the encumbrances you have producing in an industrialized country. You can produce whatever it is you are producing and ship it to Chicago, Pittsburgh, Charleston or Fargo.

The dilemma of all of that is the bifurcation of production and the means to purchase, which creates this trade deficit between countries. The trade deficit is a very serious economic problem. It is one of the few blemishes that exists on this complexion of good economic news. And we must begin to address it. I know that most people want to ignore it. They don't want to talk about it.

Interestingly enough, some of the economists in this town have always said that NAFTA and free trade are good. They said, "You know, our trade deficit is just a function of fiscal policy deficits. You won't have a trade deficit if you ever get the budget balanced." Guess what has happened? We have gotten the deficit under control and our trade deficits are still mushrooming. I really should, as a public service, rewrite the textbook, because the answers are now apparently wrong. In fact, we should get their names—some of the best economists in time who have said that—and I should get their quotes and bring them to the floor.

So those are the things that we need to have a thoughtful discussion about.

I appreciate the Senator from West Virginia raising the issue. He and I co-authored a piece of legislation, which is now law, that created a trade deficit review commission. It is my hope that the commission will soon begin meeting and sift through all of these policy areas and hopefully make recommendations to Congress in an expeditious way to allow us to get some new ideas and some new energy and new perspectives on this very critical issue. The commitment of the Senator from West Virginia, Senator BYRD, to passing that trade deficit review commission legislation—which is, as I said, now law—is very important and very helpful to this country.

Mr. President, I yield the floor. I suggest the absence of a quorum.

Mr. BYRD. Mr. President, I thank the able Senator for responding to my questions.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

UNFINISHED IMPEACHMENT BUSINESS

Mr. KYL. Mr. President, I hadn't intended to speak today, but given the fact that we have a little bit of time, I thought I would share one of the things that is on my mind as we come back to work following the Presidents' Day recess and almost a month of impeachment proceedings, which is what we were doing the last time I sat at this desk a week ago.

There is one bit of unfinished business relating to the impeachment proceedings. Because the President was not removed from office, a lot of my constituents, over the course of this last week—people I visited with throughout the State of Arizona during the Presidents' Day recess—wondered what would happen, what would the precedent be, what would the standard be in court proceedings? What was the lesson, in other words, to be learned from the fact that the President was not removed?

I had to stop and think about what I was answering them with. I said: We should not take from that the fact that you can lie or that you can obstruct justice, that you can engage in conduct that is designed to subvert justice, to take the law into your own hands. That would be the wrong lesson. I spoke to schoolkids. One of the questions that kept recurring was: If the President is not punished, then won't that lower the standard for the rest of the country in the future?

My response, I think, is that we have to go back to what HENRY HYDE was talking about when he first appeared before the Senate at the beginning of the impeachment trial, and that we need to talk to the American people about this as a piece of unfinished business. The Senate trial has come to a conclusion; the President will remain in office; the impeachment proceeding is behind us. And that is all as it should be. But it seems to me that because there is a perception that the President was not punished—I will come back to that in just a moment—that, therefore, somehow there will be a different standard applied in the future, perhaps in sexual harassment or sexual discrimination cases specifically, but more broadly within the criminal justice system.

I think the piece of unfinished business is for all of us to commit ourselves to the proposition that the rule of law will not be diminished in the United States, that not only the lawyers and the judges in the judicial process but also all Americans, parents and teachers, talking to our children, and all of us working within whatever part of society we work, will recommit ourselves

to the rule of law in the United States and ensure that this case does not create a bad precedent; that we treat this case, rather, as an aberration, as the exception that proves the rule, as a situation which is unique because it involved one person, the President, and an impeachment proceeding which is unique under our Constitution; but that we not accept it as a precedent that you can, as I said, take the law into your own hands, subvert justice, and then get away with it.

In one sense, President Clinton has not really gotten away with his bad conduct. He was impeached by the House of Representatives, he was tried in the Senate, and half of the Senate voted on one of the articles to remove him from office. History will certainly judge that his reputation has been diminished as a result of his conduct. And for a person in political life, a President in particular, that is certainly some degree of punishment. In addition to that, the trust of his office has been diminished and he clearly has suffered some public opprobrium as a result of his conduct.

Therefore, I think what we have to do is tell young people that, even though his conduct was not perceived by two-thirds of the Senate as sufficiently serious to warrant his removal from office, it does not mean that he wasn't punished. So, in that sense, the lesson to be learned is there will be bad consequences from bad action but they may not be the most severe consequences that can attach to the action.

In one of the schools I spoke to, I said, "You have a yearbook here, don't you?" And they said, "Yes."

And I said, "Suppose you did something pretty bad, but it wasn't quite bad enough to be kicked out of school. But the yearbook has your picture on it and it says below it: This person lied and did something bad in class and everybody thought he should not be trusted anymore. But it wasn't quite serious enough to kick him out of school."

I said, "That would be a pretty bad thing, for everybody who reads that yearbook for 50 years later to see that written under your picture in the yearbook. But it's not quite bad enough to throw you out of school."

So, let's understand that what has happened to the President here is not good, it is bad, because he did something wrong. I am sure that people on both sides of the aisle will concede that his conduct was inappropriate. So in that sense he has been punished.

But in a larger sense, because he was not removed from office, there is still this perception hanging out there that perhaps the rule of law has been diminished; that now it is no longer the case that one will be able to prosecute for perjury or obstruction of justice; that perhaps in a sexual harassment or discrimination case there will be some new precedent established, the "Clinton standard," that you can actually

walk very close to the line of telling the whole truth, and if you choose not to do it and you are clever enough about the way you phrase things, maybe you will be able to escape punishment. Perhaps people who were punished for perjury in sexual discrimination cases ought to be no longer punished under those same circumstances.

That is what I am saying is our unfinished business. Every one of us who has something to say about it should say: No, this case does not stand for that. This was the President of the United States whom the Senate chose not to remove from office, the most severe thing that could occur to a President. And there were a lot of reasons for that. Some of our colleagues felt it would simply be too much of a disruption for our country. Some thought that the particular activity in this case was just not quite serious enough to warrant his removal.

Those of us who disagreed with that did so, among other reasons, because we believed that allowing the President to remain in office would subvert the rule of law; that this would be used as an excuse for people to lie in the future; that there would not be as much adherence to the precedents in the past, of ensuring that people who take the law into their own hands are appropriately punished. That is one of the reasons that many of us voted guilty in this case.

But I think even though we did not prevail and the President was not removed, that everyone in the Chamber would agree—all 100 of us would agree—that we do not want this case to stand for the proposition that you can subvert justice by impeding discovery or by lying, by giving false testimony; that you cannot do those things and expect that the rule of law in the future will be any less severe with respect to its consequences.

As I said, this case must be deemed the exception that proves the rule because of its unique circumstances. In every way that those of us who are permitted to do so, we must uphold the rule of law in the country.

Specifically, that means we must teach this to our young people. We must talk about it as lawmakers here, when we speak to the local Lions Club or local Rotary Club, wherever we may be speaking, that lawyers and judges in the country must strictly adhere to the law. Anyone who appears before a court as a litigant must themselves strictly adhere to these principles and never violate the law as it exists. And anyone who teaches with respect to what this means should take the position that it does not mean that one can take the law into one's own hands and succeed in subverting justice simply because of what did or did not happen to the President of the United States in this particular case.

The rule of law is important to this country because it distinguishes us from almost every other country in the world. There are certainly other coun-

tries in which one can expect to get relatively fair justice, but in the United States we consider ourselves unique. We have, for over 210 years, protected the rule of law in this country. We have ensured that even the least among us can get equal justice under law. And this country has done a great deal to ensure that principle is true, whether it is in the Federal courts or the local courts of the country; whether it is with respect to the rich and the powerful and the famous or, as I said, the least among us. In our system, the law applies equally to everyone.

We must ensure that remains the case. How many of us would want to submit our lives or our fortunes to the justice system—oh, let's just take one of the many countries south of us, for example—in the southern hemisphere? Or in Russia today, where one cannot even engage in commerce because there is not a rule of law which ensures that dispute resolution in commercial dealings will be done fairly? How many of us would want to be accused of a crime in one of those societies and have to defend ourselves or be sued in one of those societies and be assured that we would be dealt with in a fair way? In many of those countries today, unless you have the ability to bribe someone or to pay someone off, you cannot be assured of fair justice.

In the United States today, even though we do not want to go to court, every one of us knows that if we have to go to court, we can at least expect that we will be dealt with fairly because truth-telling is at the bottom of the judicial process and truth-telling will be enforced.

It will be maintained because it will be enforced, and we can point to many cases in which people who lied are now serving in jail because of their perjury.

That is why it is important to maintain the rule of law in our country. That is what the rule of law is all about. That is why it is important, and that is why we have to sustain it.

So, Mr. President, as I reflected on what my constituents were asking me, as I talked to them over the course of this last Presidents' Day recess in Arizona, and I thought about the importance of the rule of law in the United States to each one of us, and the questions that had been raised as a result of the fact that the President was not removed from office, I dedicated myself to talking about this, to writing about it, and to ensuring my constituents back home and, hopefully, people around the country will understand how important it is for all of us over the next weeks, months, and years to ensure that the rule of law is not diminished, is not subverted as a result of the Senate's action with respect to the impeachment of President Clinton.

One could draw that conclusion, but we must not permit that conclusion to be drawn. It is up to us to maintain the rule of law in the United States, and I believe that because of the dedication

to the principle of the rule of law and the fact that everyone in this country wishes it to remain strong, and the fact that all 100 of us in this Chamber, I am certain, and the Members in the House of Representatives as well, are dedicated to that proposition and do not want to see the result of this case diminish the rule of law; that all of us will rededicate ourselves to that principle and will do everything we can over the course, as I said, of the ensuing months and years to ensure the rule of law in this country remains strong and we will continue to provide in this country, as we have in the past over 200 years, equal justice for all.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Ms. COLLINS. Mr. President, I ask unanimous consent that the order for the quorum be rescinded.

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

Ms. COLLINS addressed the Chair.

The PRESIDING OFFICER. The Senator from Maine, Ms. COLLINS, is recognized.

(The remarks of Ms. COLLINS pertaining to the introduction of S. Con. Res. 12 are located in today's RECORD under "Submission of concurrent and Senate resolutions.")

Ms. COLLINS. Mr. President, seeing no one seeking the floor, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Ms. COLLINS). Without objection, it is so ordered.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is now closed.

SOLDIERS', SAILORS', AIRMEN'S AND MARINES' BILL OF RIGHTS ACT OF 1999

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of S. 4 for debate only.

The clerk will report the bill.

The legislative clerk read as follows:

A bill (S. 4) to improve pay and retirement equity for members of the Armed Forces, and for other purposes.

The Senate proceeded to consider the bill which had been reported from the Committee on Armed Services, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Soldiers', Sailors', Airmen's, and Marines' Bill of Rights Act of 1999".

TITLE I—PAY AND ALLOWANCES

SEC. 101. FISCAL YEAR 2000 INCREASE AND RESTRUCTURING OF BASIC PAY.

(a) WAIVER OF SECTION 1009 ADJUSTMENT.—Any adjustment required by section 1009 of title 37, United States Code, in the rates of monthly

basic pay authorized members of the uniformed services by section 203(a) of such title to become effective during fiscal year 2000 shall not be made.

(b) JANUARY 1, INCREASE IN BASIC PAY.—Effective on January 1, 2000, the rates of monthly COMMISSIONED OFFICERS¹

basic pay for members of the uniformed services shall be increased by 4.8 percent.

(c) BASIC PAY REFORM.—(1) Effective on July 1, 2000, the rates of monthly basic pay for members of the uniformed services within each pay grade are as follows:

Years of service computed under section 205 of title 37, United States Code

Pay Grade	2 or less	Over 2	Over 3	Over 4	Over 6
O-10 ² ...	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
O-9	0.00	0.00	0.00	0.00	0.00
O-8	6,594.30	6,810.30	6,953.10	6,993.30	7,171.80
O-7	5,479.50	5,851.80	5,851.50	5,894.40	6,114.60
O-6	4,061.10	4,461.60	4,754.40	4,754.40	4,772.40
O-5	3,248.40	3,813.90	4,077.90	4,127.70	4,291.80
O-4	2,737.80	3,333.90	3,556.20	3,606.04	3,812.40
O-3 ³	2,544.00	2,884.20	3,112.80	3,364.80	3,525.90
O-2 ³	2,218.80	2,527.20	2,910.90	3,000.00	3,071.10
O-1 ³	1,926.30	2,004.90	2,423.10	2,423.10	2,423.10
	Over 8	Over 10	Over 12	Over 14	Over 16
O-10 ² ...	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
O-9	0.00	0.00	0.00	0.00	0.00
O-8	7,471.50	7,540.80	7,824.60	7,906.20	8,150.10
O-7	6,282.00	6,475.80	6,669.00	6,863.10	7,471.50
O-6	4,976.70	5,004.00	5,004.00	5,169.30	5,791.20
O-5	4,291.80	4,420.80	4,659.30	4,971.90	5,286.00
O-4	3,980.40	4,251.50	4,464.00	4,611.00	4,758.90
O-3 ³	3,702.60	3,850.20	4,040.40	4,139.10	4,139.10
O-2 ³	3,071.10	3,071.10	3,071.10	3,071.10	3,071.10
O-1 ³	2,423.10	2,423.10	2,423.10	2,423.10	2,423.10
	Over 18	Over 20	Over 22	Over 24	Over 26
O-10 ² ...	\$0.00	\$10,655.10	\$10,707.60	\$10,930.20	\$11,318.40
O-9	0.00	9,319.50	9,453.60	9,647.70	9,986.40
O-8	8,503.80	8,830.20	9,048.00	9,048.00	9,048.00
O-7	7,985.40	7,985.40	7,985.40	7,985.40	8,025.60
O-6	6,086.10	6,381.30	6,549.00	6,719.10	7,049.10
O-5	5,436.00	5,583.60	5,751.90	5,751.90	5,751.90
O-4	4,808.70	4,808.70	4,808.70	4,808.70	4,808.70
O-3 ³	4,139.10	4,139.10	4,139.10	4,139.10	4,139.10
O-2 ³	3,071.10	3,071.10	3,071.10	3,071.10	3,071.10
O-1 ³	2,423.10	2,423.10	2,423.10	2,423.10	2,423.10

¹ Basic pay for these officers is limited to the rate of basic pay for level V of the Executive Schedule.

² While serving as Chairman or Vice Chairman of the Joint Chiefs of Staff, Chief of Staff of the Army, Chief of Staff of the Air Force, Commandant of the Marine Corps, or Commandant of the Coast Guard, basic pay for this grade is calculated to be \$12,441.00, regardless of cumulative years of service computed under section 205 of title 37, United States Code. Nevertheless, basic pay for these officers is limited to the rate of basic pay for level V of the Executive Schedule.

³ Does not apply to commissioned officers who have been credited with over 4 years of active duty service as an enlisted member or warrant officer.

COMMISSIONED OFFICERS WITH OVER 4 YEARS OF ACTIVE DUTY SERVICE AS AN ENLISTED MEMBER OR WARRANT OFFICER

Years of service computed under section 205 of title 37, United States Code

Pay Grade	2 or less	Over 2	Over 3	Over 4	Over 6
O-3E ⁴ ..	\$0.00	\$0.00	\$0.00	\$3,364.80	\$3,525.90
O-2E ⁴ ..	0.00	0.00	0.00	3,009.00	3,071.10
O-1E ⁴ ..	0.00	0.00	0.00	2,423.10	2,588.40
	Over 8	Over 10	Over 12	Over 14	Over 16
O-3E ⁴ ..	\$3,702.60	\$3,850.20	\$4,040.40	\$4,200.30	\$4,291.80
O-2E ⁴ ..	3,168.60	3,333.90	3,461.40	3,556.20	3,556.20
O-1E ⁴ ..	2,683.80	2,781.30	2,877.60	3,009.00	3,009.00
	Over 18	Over 20	Over 22	Over 24	Over 26
O-3E	\$4,416.90	\$4,416.90	\$4,416.90	\$4,416.90	\$4,416.90
O-2E	3,556.20	3,556.20	3,556.20	3,556.20	3,556.20
O-1E	3,009.00	3,009.00	3,009.00	3,009.00	3,009.00

WARRANT OFFICERS

Years of service computed under section 205 of title 37, United States Code

Pay Grade	2 or less	Over 2	Over 3	Over 4	Over 6
W-5	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
W-4	2,592.00	2,788.50	2,868.60	2,947.50	3,083.40
W-3	2,355.90	2,555.40	2,555.40	2,588.40	2,694.30
W-2	2,063.40	2,232.60	2,232.60	2,305.80	2,423.10
W-1	1,719.00	1,971.00	1,971.00	2,135.70	2,232.60
	Over 8	Over 10	Over 12	Over 14	Over 16
W-5	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
W-4	3,217.20	3,352.80	3,485.10	3,622.20	3,753.60
W-3	2,814.90	2,974.20	3,071.10	3,177.00	3,298.20
W-2	2,555.40	2,852.60	2,749.80	2,844.30	2,949.00
W-1	2,332.80	2,433.30	2,533.20	2,634.00	2,734.80
	Over 18	Over 20	Over 22	Over 24	Over 26
W-5	\$0.00	\$4,475.10	\$4,628.70	\$4,782.90	\$4,937.40

TITLE II—RETIREMENT BENEFITS**SEC. 201. RETIRED PAY OPTIONS FOR PERSONNEL ENTERING UNIFORMED SERVICES ON OR AFTER AUGUST 1, 1986.**

(a) **REDUCED RETIRED PAY ONLY FOR MEMBERS ELECTING 15-YEAR SERVICE BONUS.**—(1) Paragraph (2) of section 1409(b) of title 10, United States Code, is amended by inserting after “July 31, 1986,” the following: “has elected to receive a bonus under section 318 of title 37.”

(2)(A) Paragraph (2)(A) of section 1401a(b) of title 10, United States Code, is amended by striking “The Secretary shall increase the retired pay of each member and former member who first became a member of a uniformed service before August 1, 1986,” and inserting “Except as otherwise provided in this subsection, the Secretary shall increase the retired pay of each member and former member”.

(B) Paragraph (3) of such section 1401a(b) is amended by inserting after “August 1, 1986,” the following: “and has elected to receive a bonus under section 318 of title 37.”

(3) Section 1410 of title 10, United States Code, is amended by inserting after “August 1, 1986,” the following: “who has elected to receive a bonus under section 318 of title 37.”

(b) **OPTIONAL LUMP-SUM BONUS AT 15 YEARS OF SERVICE.**—(1) Chapter 5 of title 37, United States Code, is amended by adding at the end the following new section:

“§318. Special pay: 15-year service bonus elected by members entering on or after August 1, 1986

“(a) **PAYMENT OF BONUS.**—The Secretary concerned shall pay a bonus to a member of a uniformed service who is eligible and elects to receive the bonus under this section.

“(b) **ELIGIBILITY FOR BONUS.**—A member of a uniformed service serving on active duty is eligible to receive a bonus under this section if the member—

“(1) first became a member of a uniformed service on or after August 1, 1986;

“(2) has completed 15 years of active duty in the uniformed services; and

“(3) if not already obligated to remain on active duty for a period that would result in at least 20 years of active-duty service, executes a written agreement (prescribed by the Secretary concerned) to remain continuously on active duty for five years after the date of the completion of 15 years of active-duty service.

“(c) **ELECTION.**—(1) A member eligible to receive a bonus under this section may elect to receive the bonus. The election shall be made in such form and within such period as the Secretary concerned requires.

“(2) An election made under this subsection is irrevocable.

“(d) **NOTIFICATION OF ELIGIBILITY.**—The Secretary concerned shall transmit a written notification of the opportunity to elect to receive a bonus under this section to each member who is eligible (or upon execution of an agreement described in subsection (b)(3), would be eligible) to receive the bonus. The Secretary shall complete the notification within 180 days after the date on which the member completes 15 years of active duty. The notification shall include the procedures for electing to receive the bonus and an explanation of the effects under sections 1401a, 1409, and 1410 of title 10 that such an election has on the computation of any retired or retainer pay which the member may become eligible to receive.

“(e) **FORM AND AMOUNT OF BONUS.**—A bonus under this section shall be paid in one lump sum of \$30,000.

“(f) **TIME FOR PAYMENT.**—Payment of a bonus to a member electing to receive the bonus under this section shall be made not later than the first month that begins on or after the date that is 60 days after the Secretary concerned receives from the member an election that satisfies the requirements imposed under subsection (c).

“(g) **REPAYMENT OF BONUS.**—(1) If a person paid a bonus under this section fails to complete

the total period of active duty specified in the agreement entered into under subsection (b)(3), the person shall refund to the United States the amount that bears the same ratio to the amount of the bonus payment as the unexpired part of that total period bears to the total period.

“(2) Subject to paragraph (3), an obligation to reimburse the United States imposed under paragraph (1) is for all purposes a debt owed to the United States.

“(3) The Secretary concerned may waive, in whole or in part, a refund required under paragraph (1) if the Secretary concerned determines that recovery would be against equity and good conscience or would be contrary to the best interests of the United States.

“(4) A discharge in bankruptcy under title 11 that is entered less than five years after the termination of an agreement under this section does not discharge the member signing such agreement from a debt arising under the agreement or this subsection.”

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

“318. Special pay: 15-year service bonus elected by members entering on or after August 1, 1986.”

(c) **CONFORMING AMENDMENTS TO SURVIVOR BENEFIT PLAN PROVISIONS.**—(1) Section 1451(h)(3) of title 10, United States Code, is amended by inserting “OF CERTAIN MEMBERS” after “RETIREMENT”.

(2) Section 1452(i) of such title is amended by striking “When the retired pay” and inserting “Whenever the retired pay”.

(d) **RELATED TECHNICAL AMENDMENTS.**—(1) Section 1401a(b) of title 10, United States Code, is amended—

(A) by striking the heading for paragraph (1) and inserting “INCREASE REQUIRED.—”;

(B) by striking the heading for paragraph (2) and inserting “PERCENTAGE INCREASE.—”; and

(C) by striking the heading for paragraph (3) and inserting “REDUCED PERCENTAGE FOR CERTAIN POST-AUGUST 1, 1986 MEMBERS.—”.

(2) Section 1409(b)(2) of title 10, United States Code, is amended by inserting “CERTAIN” after “REDUCTION APPLICABLE TO” in the paragraph heading.

(3)(A) The heading of section 1410 of such title is amended by inserting “certain” before “members”.

(B) The item relating to such section in the table of sections at the beginning of chapter 71 of title 10, United States Code, is amended by inserting “certain” before “members”.

SEC. 202. PARTICIPATION IN THRIFT SAVINGS PLAN.

(a) **PARTICIPATION AUTHORITY.**—(1)(A) Chapter 3 of title 37, United States Code, is amended by adding at the end the following:

“§211. Participation in Thrift Savings Plan

“(a) **AUTHORITY.**—A member of the uniformed services serving on active duty for a period of more than 30 days may participate in the Thrift Savings Plan in accordance with section 8440e of title 5.

“(b) **RULE OF CONSTRUCTION REGARDING SEPARATION.**—For the purposes of section 8440e of title 5, the following actions shall be considered separation of a member of the uniformed services from Government employment:

“(1) Release of the member from active-duty service (not followed by a resumption of active-duty service within 30 days after the effective date of the release).

“(2) Transfer of the member by the Secretary concerned to a retired list maintained by the Secretary.”

(B) The table of sections at the beginning of such chapter is amended by adding at the end the following:

“211. Participation in Thrift Savings Plan.”

(2)(A) Subchapter III of chapter 84 of title 5, United States Code, is amended by adding at the end the following:

“§8440e. Members of the uniformed services on active duty

“(a) **PARTICIPATION AUTHORIZED.**—(1) A member of the uniformed services authorized to participate in the Thrift Savings Plan under section 211(a) of title 37 may contribute to the Thrift Savings Fund.

“(2) An election to contribute to the Thrift Savings Fund under paragraph (1) may be made only during a period provided under section 8432(b) for individuals subject to this chapter.

“(b) **APPLICABILITY OF THRIFT SAVINGS PLAN PROVISIONS.**—Except as otherwise provided in this section, the provisions of this subchapter and subchapter VII of this chapter shall apply with respect to members of the uniformed services making contributions to the Thrift Savings Fund as if such members were employees within the meaning of section 8401(11).

“(c) **MAXIMUM CONTRIBUTION FROM BASIC PAY.**—The amount contributed by a member of the uniformed services for any pay period out of basic pay may not exceed 5 percent of such member's basic pay for such pay period.

“(d) **OTHER MEMBER CONTRIBUTIONS.**—A member of the uniformed services making contributions to the Thrift Savings Fund out of basic pay may also contribute (by direct transfer to the Fund) any part of any special or incentive pay that the member receives under section 308, 308a, 308f, or 318 of title 37. No contribution made under this subsection shall be subject to, or taken into account for purposes of, the first sentence of section 8432(d), relating to the applicability of any limitation under section 415 of the Internal Revenue Code of 1986.

“(e) **AGENCY CONTRIBUTIONS GENERALLY PROHIBITED.**—Except as provided in section 211(c) of title 37, no contribution under section 8432(c) of this title may be made for the benefit of a member of the uniformed services making contributions to the Thrift Savings Fund under subsection (a).

“(f) **BENEFITS AND ELECTIONS OF BENEFITS.**—In applying section 8433 to a member of the uniformed services who has an account balance in the Thrift Savings Fund—

“(1) any reference in such section to separation from Government employment shall be construed to refer to an action described in section 211(b) of title 37; and

“(2) the reference in section 8433(g)(1) to contributions made under section 8432(a) shall be treated as being a reference to contributions made to the Fund by the member, whether made under section 8351, 8432(a), or this section.

“(g) **BASIC PAY DEFINED.**—For purposes of this section, the term ‘basic pay’ means basic pay that is payable under section 204 of title 37.”

(B) The table of sections at the beginning of chapter 84 of title 5, United States Code, is amended by adding after the item relating to section 8440d the following:

“8440e. Members of the uniformed services on active duty.”

(3) Section 8432b(b) of title 5, United States Code, is amended—

(A) in paragraph (1), by striking “Each employee” and inserting “Except as provided in paragraph (4), each employee”;

(B) by redesignating paragraph (4) as paragraph (5); and

(C) by inserting after paragraph (3) the following new paragraph (4):

“(4) No contribution may be made under this section for a period for which an employee made a contribution under section 8440e.”

(4) Section 8473 of title 5, United States Code, is amended—

(A) in subsection (a), by striking “14 members” and inserting “15 members”; and

(B) in subsection (b)—

(i) by striking “14 members” and inserting “15 members”;

(ii) by striking “and” at the end of paragraph (8);

(iii) by striking the period at the end of paragraph (9) and inserting “; and”; and

(iv) by adding at the end the following:

“(10) 1 shall be appointed to represent participants (under section 8440e) who are members of the uniformed services.”.

(5) Paragraph (11) of section 8351(b) of title 5, United States Code, is redesignated as paragraph (8).

(b) **APPLICABILITY.**—The authority of members of the uniformed services to participate in the Thrift Savings Plan under section 211 of title 37, United States Code (as added by subsection (a)(1)), shall take effect on July 1, 2000.

(c) **REGULATIONS.**—Not later than 180 days after the date of the enactment of this Act, the Executive Director appointed by the Federal Thrift Retirement Investment Board shall issue regulations to implement section 8440e of title 5, United States Code (as added by subsection (a)(2)) and section 211 of title 37, United States Code (as added by subsection (a)(1)).

SEC. 203. SPECIAL RETENTION INITIATIVE.

Section 211 of title 37, United States Code, as added by section 202, is amended by adding at the end the following:

“(c) **AGENCY CONTRIBUTIONS FOR RETENTION IN CRITICAL SPECIALTIES.**—(1) The Secretary concerned may enter into an agreement with a member to make contributions to the Thrift Savings Fund for the benefit of the member if the member—

“(A) is in a specialty designated by the Secretary as critical to meet requirements (whether such specialty is designated as critical to meet wartime or peacetime requirements); and

“(B) commits in such agreement to continue to serve on active duty in that specialty for a period of six years.

“(2) Under any agreement entered into with a member under paragraph (1), the Secretary shall make contributions to the Fund for the benefit of the member for each pay period of the 6-year period of the agreement for which the member makes a contribution out of basic pay to the Fund under this section. Paragraph (2) of section 8432(c) applies to the Secretary's obligation to make contributions under this paragraph, except that the reference in such paragraph to contributions under paragraph (1) of such section does not apply.”.

TITLE III—MONTGOMERY GI BILL BENEFITS

SEC. 301. INCREASE IN RATES OF EDUCATIONAL ASSISTANCE FOR FULL-TIME EDUCATION.

(a) **INCREASE.**—Section 3015 of title 38, United States Code, is amended—

(1) in subsection (a)(1), by striking “\$528” and inserting “\$600”; and

(2) in subsection (b)(1), by striking “\$429” and inserting “\$488”.

(b) **EFFECTIVE DATE.**—The amendments made by subsection (a) shall take effect on October 1, 1999, and shall apply with respect to educational assistance allowances paid for months after September 1999. However, no adjustment in rates of educational assistance shall be made under subsection (g) of section 3015 of title 38, United States Code, for fiscal year 2000.

SEC. 302. TERMINATION OF REDUCTIONS OF BASIC PAY.

(a) **REPEALS.**—(1) Section 3011 of title 38, United States Code, is amended by striking subsection (b).

(2) Section 3012 of such title is amended by striking subsection (c).

(3) The amendments made by paragraphs (1) and (2) shall take effect on the date of the enactment of this Act and shall apply to individuals whose initial obligated period of active duty under section 3011 or 3012 of title 38, United States Code, as the case may be, begins on or after such date.

(b) **TERMINATION OF REDUCTIONS IN PROGRESS.**—Any reduction in the basic pay of an individual referred to in section 3011(b) of

title 38, United States Code, by reason of such section 3011(b), or of any individual referred to in section 3012(c) of such title by reason of such section 3012(c), as of the date of the enactment of this Act shall cease commencing with the first month beginning after such date, and any obligation of such individual under such section 3011(b) or 3012(c), as the case may be, as of the day before such date shall be deemed to be fully satisfied as of such date.

(c) **CONFORMING AMENDMENT.**—Section 3034(e)(1) of title 38, United States Code, is amended in the second sentence by striking “as soon as practicable” and all that follows through “such additional times” and inserting “at such times”.

SEC. 303. ACCELERATED PAYMENTS OF EDUCATIONAL ASSISTANCE.

Section 3014 of title 38, United States Code, is amended—

(1) by inserting “(a)” before “The Secretary shall pay”; and

(2) by adding at the end the following new subsection (b):

“(b)(1) When the Secretary determines that it is appropriate to accelerate payments under the regulations prescribed pursuant to paragraph (6), the Secretary may make payments of basic educational assistance allowance under this subchapter on an accelerated basis.

“(2) The Secretary may pay a basic educational assistance allowance on an accelerated basis only to an individual entitled to payment of the allowance under this subchapter who has made a request for payment of the allowance on an accelerated basis.

“(3) In the event an adjustment under section 3015(g) of this title in the monthly rate of basic educational assistance will occur during a period for which a payment of an allowance is made on an accelerated basis under this subsection, the Secretary shall—

“(A) pay on an accelerated basis the amount the allowance otherwise payable under this subchapter for the period without regard to the adjustment under that section; and

“(B) pay on the date of the adjustment any additional amount of the allowance that is payable for the period as a result of the adjustment.

“(4) The entitlement to a basic educational assistance allowance under this subchapter of an individual who is paid an allowance on an accelerated basis under this subsection shall be charged at a rate equal to one month for each month of the period covered by the accelerated payment of the allowance.

“(5) A basic educational assistance allowance shall be paid on an accelerated basis under this subsection as follows:

“(A) In the case of an allowance for a course leading to a standard college degree, at the beginning of the quarter, semester, or term of the course in a lump-sum amount equivalent to the aggregate amount of monthly allowance otherwise payable under this subchapter for the quarter, semester, or term, as the case may be, of the course.

“(B) In the case of an allowance for a course other than a course referred to in subparagraph (A)—

“(i) at the later of (I) the beginning of the course, or (II) a reasonable time after the request for payment by the individual concerned; and

“(ii) in any amount requested by the individual concerned up to the aggregate amount of monthly allowance otherwise payable under this subchapter for the period of the course.

“(6) The Secretary shall prescribe regulations for purposes of making payments of basic educational allowance on an accelerated basis under this subsection. Such regulations shall specify the circumstances under which accelerated payments should be made and include requirements relating to the request for, making and delivery of, and receipt and use of such payments.”.

SEC. 304. TRANSFER OF ENTITLEMENT TO EDUCATIONAL ASSISTANCE.

(a) **AUTHORITY TO TRANSFER TO FAMILY MEMBER.**—Subchapter II of chapter 30 of title 38, United States Code, is amended by adding at the end the following new section:

“§3020. Transfer of entitlement to basic educational assistance

“(a) The Secretary may, for the purpose of enhancing recruiting and retention, and at the Secretary's sole discretion, permit an individual entitled to educational assistance under this subchapter to elect to transfer such individual's entitlement to such assistance, in whole or in part, to the individuals specified in subsection (b).

“(b) An individual's entitlement to educational assistance may be transferred when authorized under subsection (a) as follows:

“(1) To the individual's spouse.

“(2) To one or more of the individual's children.

“(3) To a combination of the individuals referred to in paragraphs (1) and (2).

“(c)(1) An individual electing to transfer an entitlement to educational assistance under this section shall—

“(A) designate the individual or individuals to whom such entitlement is being transferred and the percentage of such entitlement to be transferred to each such individual; and

“(B) specify the period for which the transfer shall be effective for each individual designated under subparagraph (A).

“(2) The aggregate amount of the entitlement transferable by an individual under this section may not exceed the aggregate amount of the entitlement of such individual to educational assistance under this subchapter.

“(3) An individual electing to transfer an entitlement under this section may elect to modify or revoke the transfer at any time before the use of the transferred entitlement. An individual shall make the election by submitting written notice of such election to the Secretary.

“(d)(1) The use of any entitlement transferred under this section shall be charged against the entitlement of the individual making the transfer at the rate of one month for each month of transferred entitlement that is used.

“(2) Except as provided in paragraph (3), an individual using entitlement transferred under this section shall be subject to the provisions of this chapter in such use as if such individual were entitled to the educational assistance covered by the transferred entitlement in the individual's own right.

“(3) Notwithstanding section 3031 of this title, a child shall complete the use of any entitlement transferred to the child under this section before the child attains the age of 26 years.

“(e) In the event of an overpayment of educational assistance with respect to an individual to whom entitlement is transferred under this section, such individual and the individual making the transfer under this section shall be jointly and severally liable to the United States for the amount of the overpayment for purposes of section 3685 of this title.

“(f) The Secretary shall prescribe regulations for purposes of this section. Such regulations shall specify the manner and effect of an election to modify or revoke a transfer of entitlement under subsection (c)(3).”.

(b) **CLERICAL AMENDMENT.**—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 3019 the following new item:

“3020. Transfer of entitlement to basic educational assistance.”.

TITLE IV—REPORT

SEC. 401. ANNUAL REPORT ON EFFECTS OF INITIATIVES ON RECRUITMENT AND RETENTION.

(a) **REQUIREMENT FOR REPORT.**—On December 1 of each year, the Secretary of Defense shall submit to Congress a report that sets forth the

Secretary's assessment of the effects that the provisions of this Act and the amendments made by the Act are having on recruitment and retention of personnel for the Armed Forces.

(b) *FIRST REPORT.*—The first report under this section shall be submitted not later than December 1, 2000.

Mr. WARNER. Madam President, my distinguished colleague and ranking member of the Senate Armed Services Committee desires to make a request.

Mr. LEVIN. I thank my good friend from Virginia.

PRIVILEGE OF THE FLOOR

Madam President, I ask unanimous consent that Gary Leeling of the Armed Services Committee staff be permitted privileges of the floor during debate on S. 4.

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

Mr. WARNER. Madam President, it is the intention of the Senator from Virginia, in his capacity as chairman of the Armed Services Committee, to make an opening statement regarding this very important piece of legislation. I shall be followed by my distinguished colleague, the ranking member, and then we ask other Members, particularly those on the committee, to join us in the Chamber such that we can, hopefully, this afternoon in a very material and constructive way, begin the Senate's deliberation on this absolutely critical piece of legislation.

Today, the Senate begins consideration of S. 4, the Soldiers', Sailors', Airmen's and Marines' Bill of Rights Act of 1999. The bill is an integral part of the national security element of the Republican agenda. I might say, Madam President, that Senator LOTT and other leaders announced in the January 19 timeframe of this year.

Last fall, Senator LOTT, in an excellent exchange of letters with the President and Republican chairmen, identified key problems with the military pay levels and the military pay system. Following this exchange of letters, the Armed Services Committee held hearings on September 29, 1998, and again on January 5, 1999, the first business this year, in which General Shelton and the service chiefs described the many problems—underline “many”—military services are experiencing because of the years of shortfalls in funding.

During these hearings, particular emphasis was put on readiness, the retention of highly trained people and the inability—very critical, Madam President—the inability today of the military services to achieve their recruiting goals; that is, the young men and young women in their very first step, often their first job, full-time job, they have ever had. We have experienced here in the past year substantial shortfalls, and one of the many purposes of this bill is to try to address that problem.

I say with a great sense of pride that the Joint Chiefs, individually and collectively, showed great courage in their presentations both last Sep-

tember and again this January. They spoke candidly of the problems borne by the men and women in the military today and how increased defense funding was needed in order to begin to alleviate these serious problems. General Shelton and the service chiefs urged the President and the Congress to support a military pay raise that would begin to address the inequities between military pay and civilian wages and to resolve the inequity of what is known as the Redux retirement system.

Senators LOTT, MCCAIN and ROBERTS took the initiative and showed leadership in developing early drafts of this legislation. These Senators worked within the Armed Services Committee to craft a bill that would address the problems identified by the Joint Chiefs in a comprehensive and responsible manner. When the Armed Services Committee reported this bill out on February 2, 1999, 18 of 20 members of that committee voted in favor of the bill. The two remaining members voted present, and we will hear from them. I don't say that by way of criticism. They have their own views. And one, of course, is my distinguished friend and colleague, the ranking member.

S. 4 will provide military personnel a 4.8-percent pay raise on January 1, 2000, and will require that future military pay raises be based on the Annual Employment Costs Index plus one-half a percent. The bill restructures the military pay tables to recognize the value of promotions and to weight the pay raise toward mid-career, noncommissioned officers and officers where retention is most critical. The Joint Chiefs testified that there is a pay gap between military and private sector wages of approximately 14 percent. This bill moves aggressively to close this gap and ensure military personnel are compensated in an equitable manner.

The bill provides military personnel who entered the service after July 1, 1986, the option to revert to the previous military retirement system that provided a 50-percent multiplier to their base pay averaged over their highest 3 years, and includes cost of living adjustments or to accept in the alternative a \$30,000 bonus and remain under the Redux retirement system.

The Joint Chiefs testified that the Redux retirement system is responsible for an increasing number of mid-career military personnel deciding to leave the service. S. 4 will offer these highly trained personnel an attractive incentive to continue to serve a full career.

Now, Madam President, in total fairness on this, and to be very candid, there are differences of opinion on the manner in which this bill approaches the retirement system, both the 50 percent and the \$30,000 bonus. General Shelton, in particular, has counseled me on several occasions in a very friendly and forthright way, expressing some of his concerns, and, indeed, he has written me on these points. So we are going to have to consider very care-

fully in the course of our floor deliberations here in the next few days exactly what those concerns are and is this bill drafted correctly.

Now, to continue, we will establish a thrift savings plan that will allow service members to save up to 50 percent of their base pay before taxes and will permit them to directly deposit their enlistment and reenlistment bonuses into their thrift savings plan.

In a separate section, the bill authorizes service Secretaries to match the thrift savings plan contributions of those service members serving in critical—and the operative word here is “critical”—specialties for a period of 6 years in return for a 6-year service commitment—those specialties, primarily high-tech specialties, which today are, in the job market, among the strongest committed to young people to come into the private sector. And the Department of Defense has to have a compensation package so that we can fairly compete with these offers from the private sector and to fairly treat those who have gone through this arduous period of technical training, to fairly treat them in recognition of their abilities in this high-tech arena. This is a powerful tool to assist the services in retaining key personnel in the most critical specialties.

Senator MCCAIN, on another part of this bill, was the key proponent of an initiative that would authorize a special subsistence allowance to assist the most needy junior military personnel who are eligible for food stamps under other programs. This allowance would provide those families an additional \$180 a month and would reduce the number of military families on the food stamp rolls.

Now, that is an important initiative likewise that will require a good deal of deliberation on this floor because there are some concerns about it in the Department of Defense. But I think it is a bold initiative and we don't want, to the extent we can avoid it, to have the young men and women of the Armed Forces having to rely on food stamps to support their families.

During the markup of S. 4 in the Armed Services Committee, we incorporated several provisions from S. 169, a bill introduced by Senator CLELAND and cosponsored by the Democratic members of the committee. The committee agreed to include a series of provisions that will enhance the current Montgomery GI bill benefit. These enhancements will eliminate the \$1,200 annual cost-share by service members, will increase educational benefits payments, will permit monthly benefit payments to be paid in a lump sum at the beginning of a semester or school term, and, finally, will at the discretion of the service Secretary permit the service member to transfer educational benefits to his or her dependents. Now, Madam President, if the Senate will indulge me in just a personal recollection, I am privileged to stand here as a U.S. Senator from

Virginia I think solely as a consequence of my very modest active duty in the closing months of World War II, and then once again during the Korean service. That modest service of active duty enabled me to have the GI bill, which gave me, first, my degree in general engineering, followed then, for service in the Korean conflict, by a degree in law. So this Senator wants to support in every way the same opportunities that were accorded to me, which enabled me to achieve the goals that I set for myself, for this next generation. So I salute Senator CLELAND and I hope we can find a means to finance this very important initiative by this extraordinary soldier, citizen, and now Senator from the great State of Georgia.

I want to make it clear to my colleagues that enhancing Montgomery GI bill benefits is a matter before the committee and we have so notified the committee. The Armed Services Committee included these legislative provisions, which were recommended in the recent report of the Commission on Service Members and Veterans Transition Assistance, because these increased benefits will certainly be strong incentives for continued military service. I am confident that Senator SPECTER and, indeed, Senator ROCKEFELLER and others will bring to the attention of the Senate in these few days of deliberation their views on this part of my bill.

When the Armed Services Committee reported S. 4 to the Senate, the CBO

cost estimate was not available. I have now received the estimate for S. 4 from the Congressional Budget Office, and I ask unanimous consent that this last estimate be made part of the RECORD, together with an analysis made by our own staff which in many ways simplifies the comprehensive report of this important piece of work.

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

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, February 12, 1999.
Hon. JOHN W. WARNER,
Chairman, Committee on Armed Services, U.S.
Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 4, the Soldiers', Sailors', Airmen's, and Marines' Bill of Rights Act of 1999.

If you wish further details on this estimate, we will be pleased to provide them.

Sincerely,

BARRY B. ANDERSON,
(For Dan L. Crippen, Director).

Enclosure.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

S. 4—SOLDIERS', SAILORS', AIRMEN'S, AND MARINES' BILL OF RIGHTS ACT OF 1999

Summary: S. 4 would increase various elements of compensation for current and former members of the armed forces. Specifically, it would increase pay for military personnel, provide a special allowance for low-income members, increase retirement benefits for certain members, increase educational benefits, and allow members on active duty to participate in the Thrift Savings Plan.

Assuming appropriation of the necessary amounts, enactment of the bill would raise discretionary spending by about \$1.1 billion in 2000 and \$13.8 billion over the 2000–2004 period. In 2009, those costs would total about \$6.5 billion. Because the increase in retirement benefits would apply only to members who entered the service after July 1986, annual costs would continue to rise for a few years after 2009. Additional benefits earned under the proposal between August 1, 1986, and the effective date would add about \$4.5 billion to the unfunded liability of the military retirement trust fund.

Because the bill would affect direct spending and revenues, pay-as-you-go procedures would apply. Increased educational benefits and higher annuities for certain military retirees would increase direct spending by about \$765 million a year over the 2000–2004 period. In 2009 direct spending costs would total about \$2.6 billion. The annual direct spending costs for military retirement would eventually be about 11 percent higher than spending under current law. Greater use of education benefits under the bill would raise long-run costs by about \$3 billion a year. By allowing servicemembers to participate in the Thrift Savings Plan, the bill would lower revenues by \$311 million over the 2000–2004 period and about \$141 million by 2009.

Section 4 of the Unfunded Mandates Reform Act excludes from the application of that act any legislative provisions that are necessary for the national security. That exclusion might apply to the provisions of this bill. In any case, the bill contains no inter-governmental or private-sector mandates.

Estimated cost to the Federal Government: The estimated budgetary impact of S. 4 is shown in Table 1, assuming that the bill will be enacted by October 1, 1999. Spending from the bill would fall under budget functions 700 (veterans' benefits and services), 050 (national defense), and 600 (income security).

TABLE 1.—ESTIMATED COSTS OF S. 4, AS REPORTED BY THE SENATE COMMITTEE ON ARMED SERVICES

(By fiscal year, in millions of dollars)

	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009
DIRECT SPENDING AND REVENUES										
Proposed Changes:										
Estimated Budget Authority	537	599	870	887	927	1,108	1,435	1,940	2,270	2,633
Estimated Outlays	537	599	870	887	927	1,108	1,435	1,940	2,270	2,633
Revenues	-10	-44	-67	-86	-103	-113	-120	-127	-134	-141
SPENDING SUBJECT TO APPROPRIATIONS										
Proposed Changes:										
Estimated Authorization Level	1,089	2,196	3,118	3,505	3,980	4,373	4,852	5,422	5,952	6,548
Estimated Outlays	1,075	2,164	3,103	3,487	3,963	4,354	4,832	5,400	5,928	6,520

Basis of estimate: The budgetary impact of the bill would stem from three sets of provisions: those affecting military retirement programs, pay of current members, and veterans' education. Table 2 shows the costs of provisions affecting military pay and retirement benefits that would raise direct spending, lower revenues, and raise discretionary

costs to the Department of Defense (DoD). Table 3 shows the increase in direct spending that would result from provisions raising veterans' education benefits.

costs to the Department of Defense (DoD). Table 3 shows the increase in direct spending that would result from provisions raising veterans' education benefits.

TABLE 2.—ESTIMATED COSTS OF PROVISIONS AFFECTING MILITARY COMPENSATION IN S.4, AS REPORTED BY THE SENATE COMMITTEE ON ARMED SERVICES

(Outlays by fiscal year, in millions of dollars)

Category	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009
SPENDING SUBJECT OF APPROPRIATION											
Spending Under Current Law for Military Personnel ¹	70,367	73,005	68,472	70,590	70,633	70,633	73,033	70,633	68,233	70,633	70,633
Proposed Changes:											
Retirement Benefits	0	674	862	1,437	1,453	1,541	1,550	1,597	1,709	1,760	1,767
Retention Initiative	0	2	7	15	23	28	31	33	35	37	39
Pay Increases	0	386	1,269	1,625	1,985	2,368	2,773	3,202	3,656	4,131	4,714
Subsistence Allowance	0	13	26	26	26	26	0	0	0	0	0
Subtotal	0	1,075	2,164	3,103	3,487	3,963	4,354	4,832	5,400	5,928	6,520
Spending Under S. 4 for Military Personnel ¹	70,367	74,080	70,636	73,693	74,120	74,596	77,387	74,465	73,633	76,561	77,153
DIRECT SPENDING											
Retirement Annuities											
Spending Under Current Law	31,935	32,884	33,887	34,871	34,956	37,026	38,125	39,233	40,360	41,500	42,657
Proposed Changes	0	1	1	2	2	3	3	5	25	66	125
Spending Under S. 4	31,935	32,885	33,888	34,873	35,958	37,029	38,128	39,238	40,385	41,566	42,782
Food Stamps											
Spending Under Current Law	20,730	21,399	22,431	23,251	23,913	24,629	25,303	26,005	26,715	27,426	28,152
Proposed Changes	0	-3	-5	-5	-5	-5	0	0	0	0	0

TABLE 2.—ESTIMATED COSTS OF PROVISIONS AFFECTING MILITARY COMPENSATION IN S.4, AS REPORTED BY THE SENATE COMMITTEE ON ARMED SERVICES—Continued

(Outlays by fiscal year, in millions of dollars)

Category	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009
Spending Under S. 4	20,730	21,396	22,426	23,246	23,908	24,624	25,303	26,005	26,715	27,426	28,152
REVENUES											
Thrift Savings Plan	0	-10	-44	-67	-86	-103	-113	-120	-127	-134	-141

¹ The 1999 level is the estimated spending from amounts appropriated for 1999 and prior years. The current law amounts for 2000–2009 assume that appropriations remain at the 1999 level. If they are adjusted for inflation, the base amounts would rise by about \$2,500 million per year, but the estimated changes would remain as shown.

Sources: Congressional Budget Office and Joint Committee on Taxation.

Retirement benefits

S. 4 contains provisions that would allow current members to participate in the Thrift Savings Plan and increase retirement benefits for members who entered the service after July 31, 1986, and are covered under the system known as REDUX.

Background. The Military Retirement Reform Act of 1986 (REDUX) governs the retirement of military personnel who initially entered the armed forces after July 31, 1986. Under REDUX a retiree's initial annuity ranges from 40 percent to 75 percent of the individual's highest three years of basic pay. Retirees with 20 years of service will receive 40 percent, and the fraction will grow with each additional year of service and reach the maximum at 30 years of service. When the retiree is 62 years old, the annuity is raised in most cases to equal 2.5 percent of the average of the highest 36 months of basic pay for each year of service up to maximum of 75 percent. Also, under REDUX cost-of-living adjustments (COLAs) equal the change in the Consumer Price Index (CPI) less 1 percentage point. However, when the retiree reaches age 62 the annuity is raised to reflect all of the CPI growth until that point, but thereafter annual COLAs continue to equal the CPI less one percentage point.

Current law provides two different formulas for other individuals who become eligible for nondisability retirement benefit but are not covered by REDUX. Military personnel who first became members of the armed forces before September 8, 1980, receive retired pay equal to a multiple of their highest amount of basic pay; the multiple is 2.5 percent for every year of service up to 75 percent. Retirees who first became members of the armed forces between September 8, 1980, and July 31, 1986, receive retired pay based on the average of the highest 36 months of basic pay and the multiplier of 2.5 percent for each year of service. Annuities for both of these groups are fully adjusted for changes in the CPI.

Repeal of REDUX/Optional Lump-Sum Bonus. Under section 201, members who under current law would retire under REDUX would face a choice upon reaching 15 years of service. They could elect to receive a lump-sum bonus of \$30,000 and retire under the REDUX plan or they could forgo that payment and upon retirement receive annuities under the plan in effect for retirees who first became members of the armed forces between September 8, 1980, and July 31, 1986. CBO estimates that total costs to DoD under the provision would total about \$674 million in 2000 and average about \$1.4 billion a year through 2009.

Accrual Costs. Prior to 2009 the primary budgetary impact would stem from the payments that DoD would make to the military retirement trust fund. The military retirement system is financed in part by payments from appropriated funds to the military retirement trust fund based on an estimate of the system's accruing liabilities. Repealing REDUX would increase payments from the military personnel accounts to the military retirement fund (a DoD outlay in budget function 050) to finance the increased liability to the fund resulting from additional

years of service under a more generous system.

CBO estimates that the resulting increase in discretionary spending from the accrual payments would average about \$0.8 billion by 2004 and about \$1.0 billion over the next 10 years. The costs to DoD would increase each year because not all military personnel are covered by REDUX. Under current law the percentage of the force covered by REDUX will grow until everyone in the force will have entered military service after July 31, 1986.

Accrual costs depend on many factors, including endstrengths, projected years of service at the time of retirement, grade structure or salary history, and projected rates of military pay raises, inflation, and interest rates. CBO's assumptions are consistent with the ones used recently by DoD's actuaries. The estimates also assume that in the long run annual pay raises are 4.0 percent, changes in the CPI are 3.5 percent a year, and interest rates for the trust fund's holdings of Treasury securities are 6.5 percent annually. CBO's assumptions about how many individuals would choose lump-sum payments instead of a higher retirement annuity are explained in the following paragraph.

Lump-sum Payments. In addition, CBO estimates that DoD would spend about \$500 million a year for the lump-sum payments, assuming that 50 percent of enlisted personnel and about 40 percent of officers would elect to receive the lower annuity in retirement. That estimate is based on DoD's experience under two buy-out programs in recent years. The Voluntary Separation Incentive (VSI) and the Special Separation Benefit (SSB) were two programs that DoD used extensively during the 1992–1996 period. VSI was a payment over a period of years, and SSB was a lump-sum payment that had a lower present value than VSI. About 86 percent of enlisted personnel selected SSB, and about half of the officers did. Because the present value of forgoing the annuity reduction under REDUX is significantly greater than \$30,000 and because that difference tends to be greater than the difference between VSI and SSB, CBO assumes that smaller fractions of officers and enlisted personnel would opt for the lump-sum payment than chose SSB. The members who would be affected by this provision entered service in 1986; thus, they would not be eligible for the lump-sum payment until 2001.

Direct Spending Under Section 201. Section 201 would also increase direct spending from the military retirement trust fund by \$1 million in 2000 and by about \$233 million over the 2000–2009 period. The outlay impact before 2006 is primarily due to higher cost-of-living allowances for individuals who receive a disability annuity. Starting in 2006 the impact is almost all due to regular retirements. In the long run, direct spending for military retirement would be about 11 percent higher than under current law.

Thrift Savings Plan. Section 202 would allow members of the uniformed services on active duty for a period of more than 30 days to participate in the Thrift Savings Plan (TSP). Contributions would be capped at 5.0

percent of basic pay plus any part of special or incentive pay that a member receives. The Joint Committee on Taxation estimates that the revenue loss caused by deferred income tax payments would total \$10 million in 2000, \$103 million in 2004, and about \$141 million by 2009.

Special Retention Initiative. Under section 203, the Secretary of Defense could make additional contributions to TSP for military personnel in designated occupational specialties or as part of an agreement for an extended term of service. CBO estimates that the discretionary costs from the resulting agency contributions to TSP would total \$2 million in 2000 and would increase to \$28 million by 2004, based on DoD's use of similar authority to award bonuses for enlistment or reenlistment.

Compensation of military personnel

S. 4 contains two sets of provisions that would affect compensation for those currently serving in the military. One would increase annual pay raises and change the table governing pay according to grade and years of service. The other would increase compensation to members who would otherwise be eligible for food stamps.

Pay Increases. Sections 101 and 102 contain provisions that would provide across-the-board and targeted pay raises. Across-the-board pay raises would be a total of 4.8 percent in 2000 and 0.5 percent above the Employment Cost Index (ECI) in future years. Because those raises would be 0.5 percent above the full ECI raise called for in current law, CBO estimates that incremental cost would be about \$197 million in 2000 and average about \$1.7 billion over the 2000–2009 period. The estimate is based on current projections of military strength levels and its distribution by pay grade.

Additional pay raises would be targeted at personnel in specific grades and with certain years of service. The changes to the military pay table would increase basic pay by about \$189 million in 2000 and an average of about \$860 million annually over the 2000–2009 period, based on the pay schedule and pay raises specified in the bill as well as current projections of military strength levels and its distribution by pay grade.

Special Subsistence Allowance. Section 103 would create a new allowance through 2004 for military personnel who qualify for food stamps. Eligibility for the allowance would terminate if the member no longer qualified for food stamps due to promotions, pay increases, or transfer to a different duty station. In addition, a member would not be eligible for the allowance after receiving it for 12 consecutive months, although they would be able to reapply. CBO estimates that the allowance would increase personnel costs by roughly \$13 million in 2000 and \$26 million annually through 2004, based on information from DoD on the number of military personnel who currently receive food stamps.

CBO estimates that most of the 11,000 personnel in grades E-5 or below will remain on food stamps and apply for the special subsistence allowance. However, the additional \$180 of monthly income would replace the average household's monthly food stamp benefit by \$54, resulting in savings of about \$7

million each year in the Food Stamp program over the 2001–2004 period. The special subsistence allowance might also serve as an incentive for eligible but nonparticipating military personnel to apply for food stamps. CBO estimated that 1,500 additional service members who participate in the Food Stamp program in an average month at an annual cost of \$2 million. Thus, this provision is estimated to result in a net savings to the Food Stamp program of \$3 million in 2000 and \$5 million each year over the 2001–2004 period.

Veterans' readjustment benefits

As shown in Table 3, the bill contains four provisions that would raise direct spending for veterans' readjustment benefits, specifically the Montgomery GI Bill (MGIB).

Rates of Assistance. Section 301 would raise the rate of educational assistance to certain veterans with service on active duty. Participating veterans who served at least

three years on active duty would receive as much as \$600 a month instead of \$528 a month as under current law. Similar veterans with at least two years of active duty would be eligible for a maximum benefit of \$488 a month, an increase of \$59 dollars a month. Under section 301, the cost-of-living allowance scheduled for 2000 would not occur. CBO estimates that this provision would increase direct spending by over \$100 million a year over the next 10 years, based on current rates of participation in this program.

Termination of Member Contributions. Section 302 would eliminate the contribution that MGIB participants pay under current law. Unless members elect not to participate in the MGIB, current law requires a contribution of \$1,200 toward the program. Based on current rates of participation, which is nearly universal, CBO estimates that this provision would result in forgone receipts of about \$195 million a year.

Accelerated Payments. Section 303 would permit veterans to receive a lump-sum payment for benefits they would receive monthly over the term of their training, for example, a semester in college or the period of a course's instruction for other forms of training. CBO estimates that this provision would increase direct spending in 2000 by about \$134 million and by about \$27 million in 2001. Increased costs would occur initially as payments from one fiscal year are made in the preceding year. There would be no net effect in subsequent years because in a given year payments shifted to the preceding year would be offset by payments shifted from the following year. CBO estimates that about 50 percent of MGIB beneficiaries would elect to receive an accelerated payment in 2000 and that a total of 60 percent would make that election in 2001 and later years. The estimate is also based on current rates of participation in this program.

TABLE 3.—ESTIMATED COSTS OF PROVISIONS AFFECTING VETERANS' READJUSTMENT BENEFITS IN S. 4, AS REPORTED BY THE SENATE COMMITTEE ON ARMED SERVICES

(Outlays by fiscal year, in millions of dollars)

Category	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009
DIRECT SPENDING											
Spending Under Current Law for Veterans' Readjustment Benefits	1,374	1,366	1,372	1,385	1,397	1,400	1,405	1,411	1,424	1,446	1,472
Proposed Changes:											
Rates of Assistance	0	98	100	101	103	104	105	106	108	110	113
Member Contributions	0	197	195	195	195	195	195	195	195	195	195
Accelerated Payments	0	134	27	0	0	0	0	0	0	0	0
Transfer of Entitlement	0	110	281	577	592	630	805	1,129	1,612	1,899	2,200
Subtotal—Proposed Changes	0	539	603	873	890	929	1,105	1,430	1,915	2,204	2,508
Spending Under S. 4 for Veterans' Readjustment Benefits	1,374	1,905	1,975	2,258	2,287	2,329	2,510	2,841	3,339	3,650	3,980

Transfer of Entitlement. Section 304 would provide DoD with the authority to allow military personnel to transfer their entitlement to MGIB benefits to any combination of spouse and children. CBO expects that DoD would use the authority in 2000 to enhance recruiting and retention and that the benefit would be limited to current members of the armed forces and those who might join for the first time. Over the first five years almost all of the estimated costs would stem from transfers to spouses, who would tend to train on a part-time basis. Transfers to members' children are estimated to begin in 2004, and spending for children's education would account for more than half of the program's cost beginning in 2006. CBO estimates that the provision would raise costs by about

\$110 million in 2000, about \$2.2 billion over the first five years, and about \$9.8 billion over the 2000–2009 period. In the long run, costs would rise to about \$3 billion a year. If the benefit were awarded to current veterans, CBO estimates that the costs would be a couple of billion dollars higher over the 2000–2009 period.

CBO assumes that about 35 percent of all MGIB participants would transfer their entitlement to their spouses and children. Currently, about half of all MGIB participants do not use their benefits, thus about 70 percent of the remaining half are expected to transfer it. CBO estimates that about a third of the transfers would be to spouses and that eventually about 200,000 spouses each year would receive a benefit for part-time training, averaging about \$2,700 in fiscal year 2000.

CBO estimates that in the long run over 500,000 children of members or former members would use the educational assistance each year but that level would not be reached until about 2013. Full-time students would receive about \$5,400 in 2000 under the bill.

Pay-as-you-go considerations: Section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 sets up pay-as-you-go procedures for legislation affecting direct spending or receipts. The net changes in outlays and governmental receipts that are subject to pay-as-you-go procedures are shown in the following table. For the purposes of enforcing pay-as-you-go procedures, only the effects in the current year, the budget year, and the succeeding four years are counted.

By fiscal years, in millions of dollars—											
	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009
Changes in outlays	0	537	599	870	887	927	1,108	1,435	1,940	2,270	2,633
Changes in receipts	0	–10	–44	–67	–86	–103	–113	–120	–127	–134	–141

Intergovernmental and private-sector impact: Section 4 of the Unfunded Mandates Reform Act excludes from the application of that act any legislative provisions that are necessary for the national security. That exclusion might apply to the provisions of this bill. In any case, the bill contains no intergovernmental or private-sector mandates.

Previous CBO estimate: On September 28, 1998, CBO prepared a cost estimate for a proposal to repeal the Military Retirement Reform Act of 1986 (REDUX). This estimate relies on many of the same actuarial assumptions, models, and estimates from the Office of the Actuary at DoD that CBO used in the earlier estimate. However, this estimate also reflects the provisions of S. 4 that would offer certain members an option to stay under the REDUX system and that would raise the pay base applicable to computing the costs of military retirement.

Estimate prepared by: Federal Cost: The estimates for defense programs were prepared by Jeannette Deshong (military and civilian personnel) and Dawn Sauter (military retirement and veterans' benefits). They can be reached at 226–2840. Valerie Baxter prepared the estimates for food stamps. She can be reached at 226–2820. Impact on State, Local, and Tribal Governments: Leo Lex (225–3220). Impact on the Private Sector: R. William Thomas (226–2900).

Estimate approved by: Paul N. Van de Water, Assistant Director for Budget Analysis.

THE COST OF S. 4 MAJOR POINTS

Majority of the discretionary incremental increase in S. 4 over the Administration's plan is due to the larger pay raises after FY 00, (4.4% in S. 4 versus 3.9% in the budget request).

Direct spending in S. 4 is attributable to changes in the Montgomery GI Bill (MGIB).

Revenue loss in S. 4 is due to the institution of a military Thrift Savings Plan (TSP).

The direct spending and the loss of revenues makes S. 4 subject to a budget point of order.

Background. The Congressional Budget Office (CBO) has provided a cost estimate of S. 4, The Soldiers' Sailors', Airmen's and Marines' Bill of Rights Act of 1999 and the cost for the Administration's pay raise and retirement plan. In developing the cost of the Administration's plan, CBO used two different sets of economic assumptions, making a direct comparison to S. 4 difficult. One cost estimate developed by CBO, costs the Administration's plan using lower ECIs than what is currently reflected in the budget request (this plan is listed as CBO's ECIs). The second cost estimate of the Administration's plan reflects the budget request (this plan is

listed as OMB's ECIs). The basic difference between the two CBO estimates is the size of the military pay raise after fiscal year 2000. Currently, the fiscal year 2000 defense budget request programs future raises at 3.9%. CBO believes that an ECI in the future will be lower and this could lower future pay raises to 3.2%.

Using the pay raise that is currently in the budget request (3.9%), provides for a more direct comparison to S. 4. If ECIs are lowered in the future, subsequent budget requests will reflect this new economic assumption. Summary of the costs for the Administration's plan and S. 4 are below. More detailed CBO cost estimates are attached.

(In billions of dollars)

	FY00	FYDP	FY 00-09
S. 4:			
Discretionary Spending	1.075	18.146	40.826
Direct Spending .....	.537	4.928	13.206
Loss of Revenues	(.010)	(.423)	(.522)
Administration's Plan (OMB ECI):			
Discretionary Spending	1.497	15.764	35.767
Direct Spending .....	.001	.008	.351
Loss of Revenues	NA	NA	NA
Administration's Plan (CBO ECI):			
Discretionary Spending	1.497	13.889	24.281
Direct Spending .....	.001	.008	.351
Loss of Revenues	NA	NA	NA
S. 4 vs Administration's Plan (OMB ECI):			
Discretionary Spending	(.422)	2.382	5.059
Direct Spending .....	.536	4.920	8.147
Loss of Revenues	(.010)	(.423)	(.522)

Mr. WARNER. Madam President, the CBO estimates that enactment of S. 4 will raise discretionary spending by about \$1.1 billion in fiscal year 2000 and \$13.8 billion over the 2000-2004 time period. There are, of course, direct spending and forgone tax revenue issues that we will have to overcome. I have been working with Senator DOMENICI, Senator STEVENS, and others to address these issues in the budget resolution and the defense authorization bill, which are ongoing deliberations.

The important perspective to consider here is that, even though this bill is expensive, the alternative is unacceptable. I wish to stress that: The alternative is unacceptable. We, simply, as a nation—the leader of the world, with the strongest and the largest armed force of any nation in the world, an armed force which is deployed overseas, now, in many places, preserving freedom and trying to secure freedom for others—we simply cannot allow the best military force in the world to wither and atrophy. We must be prepared to pay the price in dollars to fulfill our constitutional duties “To raise and support Armies,” and “To provide and maintain a Navy.” As I and other Members of the Senate—and that is of course taken from the Constitution. And subsequent thereto we have the Air Force, and of course the Marines have been with us forever, but that is the wording out of the Constitution.

As I and the other Members of the Senate have visited military bases here in the United States, in Bosnia, and in other deployment areas, we have found that our young service men and women and their families are doing a tremendous job, under adverse conditions in many cases—tremendous stress on the family—and how proud we are, particularly of the many wives and others in the families who make this system work. It is a family matter.

In order to demonstrate to these highly trained and dedicated military personnel that we appreciate their sacrifices and contributions, we must move quickly to pass this legislation. Such action will permit military personnel and their families to make the decision, hopefully, to continue to serve and will assist the military services in recruiting the high-quality force we have worked so hard to achieve. And that means front-end acquisition at the recruiting stations.

I am proud to be a cosponsor of this important legislation and again salute those of my colleagues who were the early pioneers—Senators LOTT, MCCAIN, ROBERTS, and others—and I am proud to join with them today in presenting this bill to the Senate.

Also, Madam President, I want to bring to the attention of the Senate a very important letter which arrived here just late Friday from the Secretary of Defense. I ask unanimous consent to have this printed in the RECORD.

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

SECRETARY OF DEFENSE,

Washington, DC, February 19, 1999.

Hon. JOHN W. WARNER,
Chairman, Committee on Armed Services,
U.S. Senate, Washington, DC.

DEAR JOHN: I am following up on the comments General Shelton and I made concerning S. 4, the Soldiers', Sailors', Airmen's and Marines' Bill of Rights Act of 1999 during our posture hearing before your committee. First, let me thank you for your early action to endorse the President's initiative to improve compensation for our military personnel. I fully appreciate the desire of the Committee to take the lead for the Senate on these important matters. Unfortunately, there are a number of elements of the bill which cause concern and the Department has not had an opportunity to testify on this bill and outline concerns. So I am taking this opportunity to present to you our reservations.

Again, let me emphasize that I sincerely appreciate your endorsing key elements of the Department's proposal, including: (1) a large across-the-board pay raise increase for military service members; (2) substantial increases in retirement benefits, such that all members can receive a retirement pay that is 50% of their average high salary at 20 years, vice 40% for many members; and (3) reform of the military pay tables, including increased raises for promotions. I especially appreciate your endorsement of pay table reform which more than anything will correct pay inequities. These three items are fully funded in the defense budget I submitted last month.

S. 4 propose even larger pay raises, higher cost-of-living adjustments, and other items which are not in the budget I submitted. I estimate that these additional items will cost \$7 billion in discretionary funding through FY2005. I am concerned that until there is a budget resolution that sets the defense budget level, this bill constitutes an unfunded requirement on the Department. Absent an increase in the topline for Defense, these items will only displace other key elements of our program. It could be counterproductive and completely contrary to our mutual desire not to undercut our modernization effort and other readiness priorities. For these reasons, it is imperative to proceed within the regular authorization process and after we have agreement on a budget topline.

S. 4 also contains expanded education benefits for veterans and their dependents that would incur costs in addition to the \$7 billion noted above. These benefit proposals stem in part from the just-released Report of the Congressional Commission on Servicemembers and Veterans Transition Assistance. The Department was not asked to testify before the Senate Armed Services committee on S. 4 and the Senate Veterans Affairs Committee held only one hearing on the commission's report. As the Department had only a limited opportunity to review and comment on the commission's recommendations, I believe that the commission's significant policy changes contained in S. 4 warrant additional study. Implementing these expanded levels would equate to a 36% increase before inflation within one year. I believe the impact of last year's increases should be considered before enacting further changes.

I appreciate the Committee's intent to address the legitimate needs of servicemembers regarding pay and retirement. However, I am concerned that S. 4 could have the opposite effect by raising hopes that cannot be fulfilled until the final budget number is set. Resolving these questions within the normal authorization and budget processes is by far the most desirable approach.

Sincerely,

BILL COHEN.

Mr. WARNER. “Dear John,” writes our former colleague Senator COHEN,

I am following up on the comments General Shelton and I made concerning S. 4, the Soldiers', Sailors', Airmen's and Marines' Bill of Rights Act of 1999 during our posture hearing before your committee. First, let me thank you for your early action to endorse the President's initiative to improve compensation for our military personnel. I fully appreciate the desire of the Committee to take the lead for the Senate on these important matters. Unfortunately, there are a number of elements of the bill which cause concern and the Department has not had an opportunity to testify on this bill and outline our concerns. So I am taking this opportunity to present to you our reservations.

On the question of the opportunity to testify, of course we had the two hearings, one in September and again this January, so there was a great deal of testimony that was used directly in formulating this bill. However, the subcommittee, under the distinguished chairman Senator ALLARD, will be meeting this week to take up further hearings on the bill.

Again, let me emphasize that I sincerely appreciate your endorsing key elements of the Department's proposal, including: (1) a large across-the-board pay raise increase for military service members; (2) substantial increases in retirement benefits, such that all members can receive a retirement pay that is 50% of their average high salary at 20 years, vice 40% for many members; and (3) reform of the military pay tables, including increased raises for promotions. I especially appreciate your endorsement of pay table reform which more than anything will correct pay inequities. These three items are fully funded in the defense budget I submitted last month.

S. 4 proposes even larger pay raises, higher cost-of-living adjustments, and other items which are not in the budget I submitted. I estimate that these additional items will cost \$7 billion in discretionary funding through FY2005. I am concerned that until there is a budget resolution that sets the defense budget level, this bill constitutes an unfunded requirement on the Department. Absent an increase in the topline for Defense, these items

will only displace other key elements of our program. It could be counterproductive and completely contrary to our mutual desire not to undercut our modernization effort and other readiness priorities. For these reasons, it is imperative to proceed within the regular authorization process and after we have agreement on a budget topline.

That is constructive criticism, but at the same time I think it is very important, and again I commend our leadership, that we lay this bill down today to send a signal to the men and women of the Armed Services that the U.S. Senate on the first bill, really, to be taken up in this new Congress—that is the type of priority that we attach their pay, retirement, and other benefits.

S. 4 also contains expanded education benefits for veterans and their dependents that would incur costs in addition to the \$7 billion noted above. These benefit proposals stem in part from the just-released Report of the Congressional Commission on Servicemembers and Veterans Transition Assistance. The Department was not asked to testify before the Senate Armed Services Committee on S. 4 and the Senate Veterans Affairs Committee held only one hearing on the commission's report. As the Department had only a limited opportunity to review and comment on the commission's recommendations, I believe that the commission's significant policy changes contained in S. 4 warrant additional study.

I assure my good friend, Secretary Cohen, that study is ongoing and will be thoroughly debated here in the coming days.

Implementing these expanded levels would equate to a 36% increase before inflation within one year. I believe the impact of last year's increases should be considered before enacting further changes.

I appreciate the Commission's intent to address the legitimate needs of servicemembers regarding pay and retirement. However, I am concerned that S. 4 could have the opposite effect by raising hopes that cannot be fulfilled until the final budget number is set. Resolving these questions within the normal authorization and budget processes is by far the most desirable approach.

I can respect that viewpoint from our good friend, our recently departed colleague. But nevertheless, we are going to forge ahead and do our very best to achieve the basic goals for which he, I think, very courteously applauds us as a committee and those Members who have worked on it.

Madam President, following his letter, I would like to put in a letter by the military coalition which, again, draws the debate lines on these several points that I have raised. I will perhaps refer to this later, but at this time, I want to yield the floor so my distinguished colleague can give his remarks.

PRIVILEGE OF THE FLOOR

Madam President, I ask unanimous consent that the staff members of the Committee on Armed Services, appearing on the list which is appended hereto, be extended the privilege of the floor during the consideration of S. 4.

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

Mr. WARNER. I thank the Chair.

Mr. LEVIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Mr. LEVIN. Madam President, Members of this body are keenly aware of the demands we place on our troops, the circumstances in which they live and work and the fact we often pay them less and expect them to do far more than employers in the private sector.

I commend Secretary Cohen, General Shelton, and the Joint Chiefs of Staff for recognizing that military recruitment and retention has begun to suffer and for acting forcefully to address this problem.

The fiscal year 2000 defense budget includes funding for an across-the-board increase in military salaries, targeted pay raises to better reward performance, and a change to the military retirement system to place service members who entered after 1986 on a footing more comparable to those who entered the service at an earlier date. These changes should help provide fairer compensation to our men and women in uniform, and we should act together to enact them into law.

The bill before us contains provisions similar to those proposed by Secretary Cohen's budget, but there are several ways in which the benefits offered by S. 4 are even more generous. It includes the following: First, the administration proposal contains a 4.4-percent across-the-board pay increase. S. 4 contains a 4.8-percent pay raise.

Second, the administration budget assumes, but does not require, pay raises of 3.9 percent a year for the remainder of the FYDP. S. 4 mandates in permanent law raises of .5 percent more than the employment cost index.

Third, the administration proposal would restore the same 50 percent of base pay for post-1986 retirees as for pre-1986 retirees. S. 4 would provide the same change while also restoring the more generous pre-1986 full CPI COLAs. Under S. 4, post-1986 retirees could accept a one-time, lump-sum payment of \$30,000 and opt out of this generous retirement system.

Fourth, S. 4 authorizes active duty service members to participate in the Thrift Savings Plan for Federal employees. The administration proposal contained no similar provision.

Fifth, S. 4 contains a special allowance for service members who are eligible to receive food stamps. The administration proposal contained no similar provision.

And sixth, S. 4 contains provisions first proposed by Senator CLELAND and consistent with the recommendations of the Congressional Commission on Service Members and Veterans Transition Assistance to improve the educational benefits provided to service members through the GI bill. The administration proposal contained no similar provision.

I have some concerns about a number of these provisions, but there is little doubt that they would substantially

improve the pay and benefits available to members of the Armed Forces. The GI bill provisions, in particular, should provide substantial incentives to help address the current recruiting and retention problems facing the military services, while offering our men and women in uniform an educational opportunity in the proudest tradition of our country.

For this reason, I agree with the sponsors of the bill that we should do what we can to make these benefits a reality. So on that question, I hope there is no Member of this body, and I know there is no member of the Armed Services Committee not in agreement that we should do what we can to make these benefits in S. 4 a reality.

But the question is, How can we best make that happen. Do we best serve the interests of the troops by bringing this bill to the floor for consideration before we have passed a budget resolution and before we know whether money will be available to pay for this bill? Do we best serve our troops by separating the pay and the benefits issues from the rest of the authorization, even if that can force us to delay improvements in living and working conditions, and even if that forces us to postpone the introduction of new equipment? Or would we better serve the interest of our troops by considering the provisions of this bill in our normal authorization process after the budget resolution has been passed and we have had an opportunity to conduct hearings on the specifics of the proposal in our Personnel Subcommittee?

Madam President, I want to alert my colleagues that regardless of whether we pass this bill now or later, we will have to face up to some significant issues down the road. Our military leaders have told us that they want us to change the military retirement system, but the proposals in S. 4 are very different from their proposal. Indeed, Secretary Cohen and General Shelton recently testified that they would support the added benefits in this bill only if—and I emphasize only if—they are paid for without cutting into other defense programs. At this point in the legislative cycle, before we have agreed upon a budget, we cannot give them that assurance, and we cannot give our troops that assurance.

For this reason, the Secretary of Defense wrote the committee last Friday to express strong concerns about whether this bill could be paid for without an adverse impact on national defense. My good friend, Senator WARNER, has read the letter, but I am just going to focus on a couple of paragraphs in that letter because of Secretary Cohen's concerns about whether this bill could be paid for without an adverse impact on the national defense.

Here is what Secretary Cohen wrote in part:

S. 4 proposes even larger pay raises, higher cost-of-living adjustments, and other items which are not in the budget I submitted. I estimate that these . . . items will cost \$7 billion in discretionary funding through

FY2005. I am concerned that until there is a budget resolution that sets the defense budget level, this bill constitutes an unfunded requirement on the Department. Absent an increase in the topline for Defense, these items will only displace other key elements of our program. It could be counterproductive and completely contrary to our mutual desire not to undercut our modernization effort and other readiness priorities. For these reasons, it is imperative to proceed within the regular authorization process and after we have agreement on a budget topline.

And further on, Secretary Cohen said the following:

I appreciate the committee's intent to address the legitimate needs of servicemembers regarding pay and retirement. However, I am concerned that S. 4 could have the opposite effect by raising hopes that cannot be fulfilled until the final budget number is set. Resolving these questions within the normal authorization and budget processes is by far the most desirable approach.

Madam President, this is an expensive bill. The Congressional Budget Office estimates that the enhanced pay in benefits provided for in S. 4 will cost almost \$12 billion more than the administration proposal over the next 6 years. The increases over the President's budget include added costs of \$5.6 billion for the more generous pay raises in the bill, \$1.2 billion for the enhanced retirement and Thrift Savings Plan provisions, \$100 million for the special subsistence allowance, and \$4.9 billion for the new GI bill provisions.

For several reasons, it would appear possible that these estimates may be understated.

First, the CBO estimate assumes that 50 percent of the enlisted personnel and about 40 percent of officers would elect to receive a \$30,000 lump-sum bonus in lieu of a higher annuity in retirement. However, the Chairman of the Joint Chiefs of Staff has raised serious concerns about the \$30,000 buyout, and testified that the Chiefs will recommend that the troops opt instead for the more expensive retirement annuity.

Second, while the current law governing military pay raises includes a discretionary formula, setting the COLA at .5 percent below the rate of inflation, allowing the President to take into account a broad array of factors, this bill would establish a mandatory COLA at .5 percent above the rate of inflation forever. The CBO estimate addresses the change in the anticipated formula, but because CBO estimates are limited to a narrow budget window, that estimate does not address the added cost to the pay raise that goes on without any time limit whatsoever.

And third, and finally, if Congress stands by the historic concept of pay equity and provides annual pay increases for civilian employees of the Federal Government equal to those proposed in this bill for members of the military services, the Department of Defense would face a substantial bill for increased civilian pay as well; and, of course, our overall budget outside of the Department of Defense would also have a substantial bill for increased civilian pay as well.

Madam President, little consideration appears to have been given to how we will pay for these increased benefits. At least three 60-vote points of order could be made against this bill under the provisions of the Budget Act—because it would exceed mandatory spending allocations, it would reduce revenues, and it would increase the deficit. That stark fact should demonstrate that we are considering this bill outside the normal legislative cycle. There could be serious consequences to acting on a major spending authorization for fiscal year 2000 and beyond separate from the authorization bill of which it is a part and before we have even considered the budget resolution for fiscal year 2000.

Do we intend to revise the budget agreement to pay for this bill? If so, where will the money come from? Will we take it out of surplus? Or will we make some as yet unspecified cuts in the already tight budget for domestic programs to pay for it? At this early point in the legislative cycle, we simply do not know. We can only say that unlike the administration's pay and retirement proposal, which was fully paid for in the President's budget, this bill represents a promise to the troops that may or may not be possible to redeem.

If the defense budget is not substantially increased, and if the bill before us is adopted by the House and becomes law, we would need to cut the readiness and modernization accounts to offset the costs of this bill. As the Secretary of Defense has pointed out, such cuts coming at a time when our senior military leadership have already expressed concerns about our readiness could have a serious impact on our national security. For this reason, the Secretary of Defense and the Chairman of the Joint Chiefs of Staff stated that they would support the increased benefits contained in the bill only if the additional money does not come out of other defense programs.

Now that is really the key to this. Will these benefits, which we all would like to see put in place, come from other defense programs or will there be a new budget agreement? We do not know. We should know before we act on this bill; but we are not going to know. This bill comes to the floor without knowing the answer to that critical question: whether or not these benefits are going to come out of other defense programs or whether there will be a new budget agreement which lifts the cap for defense.

When Secretary Cohen and General Shelton testified before the Armed Services Committee on February 3, the Secretary stated that any further increases to military pay and benefits should be considered in conjunction with the defense authorization bill. And here is what the Secretary said:

[W]e do have to propose this as a package, because if we raise expectations unrealistically and we cannot fulfill them we have done a disservice to our troops. Secondly, if we are going to take it out of the readiness

accounts and procurement, we have also done a disservice. So the package that we have put together we think makes sense and we hope that any variation will be paid for, period.

That is pretty stark and pretty succinct. It comes from our top military leadership that "we hope that any variation will be paid for, period." The increases in this bill above the increases in the President's budget are not paid for in this bill. The Secretary of Defense says, "we hope that any variation will be paid for, period."

Now, we are not doing the troops a favor if we say that we are going to increase their benefits but then do not follow through with the appropriation that is necessary to increase their benefits. I do not think there is a member of the Armed Services Committee or a Member of this body who does not believe we should increase the benefits as much as we can to our troops. They deserve it. But we are doing this in a vacuum, separate from the defense authorization bill. And that opens the possibility that we would be passing a bill which says we will give you these extra benefits but then down the line when it comes to an appropriations process or a budget process there is no added funds for defense, and then either these benefits are not funded later on, which would be terrible after we promised them, or we will take the increase out of readiness or modernization or out of housing or some other needed aspect of our defense budget.

So I believe that every Member of this body would like to support the improved pay and benefits that would be afforded to our men and women in uniform by this bill. And the question is not whether this additional step is a desirable one—it is—but we should take it only if we can pay for it. And we have to know whether or not we are going to be able to pay for it or else we could be doing damage to morale instead of increasing the needed benefits for our troops.

So, for this reason, I may offer an amendment at an appropriate time to express the sense of the Senate that the provisions of this bill are subject to further consideration in the authorization and the appropriation process, after we have agreed on a budget resolution and a determination can then be made whether sufficient funds are available to pay for the bill and a sufficient determination could be made as to what impact those changes will have, if any, on needed readiness and modernization programs in the Department of Defense.

I believe that approach would give us an opportunity both to do what this bill does, which is to send an early message to the troops, which the sponsors of the bill have suggested, while at the same time demonstrating some care and some caution by indicating, consistent with the request from the Secretary of Defense, which is now in the RECORD, that the bill will receive further consideration as part of this

year's defense authorization bill, after we have passed a budget and after we know how much money will be available for national defense.

Madam President, I yield the floor, and I thank the Chair.

Mr. WARNER addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia is recognized.

Mr. WARNER. Madam President, I think the argument has been framed. My friend and colleague points up his desire to follow the procedures that he and I followed for 21 years as a member of the Armed Services Committee. But, Madam President, I accept responsibility for bringing up this bill early and encouraging our leadership to give me their support. And here is the reason. Let me just give you one example of the problems we are seeing in our military today.

During fiscal year 1998, the military lost 1,641 more pilots than they expected.

They very carefully planned for a certain amount of attrition through retirements at the end of 20 years—or whenever it may be—and for those persons who decided not to make the military a career, it was time to accept other challenges. Those figures show you have to retain a certain percentage in each of those key pay grades of pilots in order to keep the airplane flying, in order to fulfill the missions abroad. President Clinton has sent the men and women of the Armed Forces of the United States abroad more than any other President in the history of this great Nation. We need these people, particularly the airmen. We are 1,641 airmen short.

Let's translate that into dollars. The average cost to train a military pilot is about \$5.8 million. To replace 1,600 pilots will cost the Department of Defense over \$9 billion—repeat, \$9 billion. If the enhanced benefits within this bill—the subject of criticism by my colleague—can reduce the unprogrammed losses of pilots by even one-third, we will have more than made up for the additional costs of S. 4 compared to what the Department of Defense bill sent up. There is an example.

If you need one more, it is right here. Last year, the Army missed the recruiting goals by about 800. The Navy missed their recruiting goals by 7,000. So far this year, the Army has failed to meet the first quarter of this new fiscal year goals by 2,500. According to the Army's own estimates, they will in 1999—unless this bill and other signals that we send change the course—they will in 1999 have 10,000 fewer recruits than what they need to man the forces all over the world.

What does that mean, Madam President? That means that some soldier must stay that added time overseas on an assignment, away from his family, or be recalled from his assignment here in the United States to go overseas and replace another, more often than he or she ever anticipated. As a result, these

people are getting out of the middle pay grades and the youngsters aren't coming in.

I will take responsibility for bringing up this bill. I will take responsibility for going in for the high figures for this pay increase. Yes, we will accept that, because in any negotiation that I have to undertake with the chairman of the Appropriations Committee and the chairman of the Budget Committee, I want to go in with a top figure, hoping I can do better than what the administration came up with in their pieces of legislation.

These are the problems we are facing, the real problems—shortfalls, shortfalls, shortfalls—resulting in loss of time with family, fewer skills, and the inability to attract and find young men and women to come into the services.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Mr. LEVIN. Madam President, I agree with my good friend from Virginia in terms of the need to both attract and retain people. It is also important that we pay for the benefits in this bill.

We are not doing anybody a favor if we say we are going to increase the pay, and then we cut their housing. We are not doing anybody a favor if we say there will be an added pay increase to what the President proposes, and then cut flying hours and steaming hours so that people don't have the training that they want as members of the military.

I don't know of anybody who is more keenly aware of the need to both recruit and retain people than our Secretary of Defense. I can't think of anybody other than the Chairman of the Joint Chiefs and the Joint Chiefs themselves who are more keenly aware of these shortfalls. That is why we have these increases in the President's budget. But the Secretary of Defense, who is responsible for increasing recruitment and retention, has proposed a budget to us which he believes will do just that. He says in his letter to both the chairman and to me:

... it is imperative to proceed within the regular authorization process and after we have agreement on a budget topline.

The reason he said that is because, "It could be counterproductive and completely contrary to our mutual desire not to undercut our modernization effort and other readiness priorities" to do otherwise.

So in terms of the benefits in this bill, I am not one who is criticizing the benefits in this bill at all. I commend these benefits. I just want to pay for them. That is the only issue. Whether we are going to pay for these benefits or we are just going to say in a bill that these benefits are going to be increased, without knowing where the increase is coming from, without knowing whether the budget resolution is going to put more money in for defense, without knowing whether or not these increases in benefits, this pay, and retirement are going to come out

of readiness, modernization, housing, or where they will come from in there is not a top line.

The benefits, it seems to me, are appropriate. But paying for them is essential, or else we are going to unleash two things. One is false hopes, which will then be dashed, which is, it seems to me, the worst of all worlds—false hopes in our uniformed military people that they will be getting a pay raise larger than the one proposed by the President. Or we are going to be carrying through with the provisions of this bill, and unless there is an increase in the top line, we will be seeing a degradation in readiness or modernization or housing or other important needs, both of the Nation and of our uniformed military personnel.

So I am very supportive of the benefits in this bill. What I am pointing out is the missing part of this bill. This is half a bill. This isn't a full bill. This is half of the bill. This is increasing the benefits but it is not saying how we will pay for those benefits. It is half the ledger without the other half of the ledger. That is the problem with this bill.

It seems to me what we should do is what the Secretary of Defense has suggested, which is to make these benefits part of the overall authorization bill, which is where they belong and where, traditionally, they have always been lodged and where they have always been considered.

We, hopefully, can provide these benefits. I hope and pray we can provide these benefits. They are useful benefits. But we have to pay for them or else we are not doing the responsible and thoughtful thing. We must pay for them as the Secretary of Defense has urged us to do. Otherwise, in his words,

I am concerned that S. 4 could have the opposite effect by raising hopes that could not be fulfilled until the final budget number is set.

And the "opposite effect" that he is referring to is addressing the legitimate needs of service members regarding pay and retirement.

Madam President, I yield the floor.

The PRESIDING OFFICER. The Senator from Colorado is recognized.

PRIVILEGE OF THE FLOOR

Mr. ALLARD. Madam President, I ask unanimous consent Doug Flanders of my staff have floor privileges during the entire debate on the Senate floor.

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

Mr. ALLARD. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. ROBB. Madam President, I express my appreciation to my colleagues, particularly the Senator from Colorado, for giving me a moment to

get over to the floor before he begins his address.

PRIVILEGE OF THE FLOOR

Mr. ROBB. Madam President, I ask unanimous consent that during the floor consideration of S. 4, Herb Cupo, a congressional fellow from the Department of the Navy, be granted floor privileges.

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

Mr. ROBB. Madam President, as a cosponsor of S. 4, the Soldiers', Sailors', Airmen's and Marines' Bill of Rights Act of 1999, I am pleased that we are moving forward on this legislation.

S. 4 provides the resources to begin to reverse the steady downward spirals we have seen in military retention and recruiting.

S. 4 provides significant pay raises, improved retirement pay, and enhanced GI bill benefits. It is an important step—one of several—that the Congress must take this year to help the military pull out of what the Chairman of the Joint Chiefs describes as “a nosedive that might cause irreparable damage to this great force.” It is also a strong signal to our most important military asset—our men and women in uniform, and their families—that we are serious about taking care of them.

Being a cosponsor, however, hasn't alleviated my concern that we may be moving too quickly on this legislation. This bill has substantial budgetary implications, many of which we are only beginning to quantify.

Specifically, we don't know yet exactly what this bill will cost, nor whether it is structured to best fix ongoing retention and recruiting problems. Moreover, we haven't yet taken the time to assess where any additional defense dollars should be spent in the broader context. For example, if we put some of these additional funds toward new equipment, we could improve our ability to fight in future wars, and by providing our troops with higher quality, more reliable equipment, we also improve recruiting and retention. This is just one of many examples of why I believe—as the ranking member of the committee believes—that it is important to think through any defense budget increases in a strategic and not just a piecemeal manner.

Now, one way to improve the bill to ensure that we are improving recruiting and retention in a more direct and cost-effective manner is to closely align any pay increases with problem specialties. Along with Senators CLELAND and KENNEDY, I intend to offer a “Special and Incentive Pay Amendment” to S. 4, which I filed on February 3.

This amendment targets certain smaller categories of military service where our retention challenges are particularly daunting, categories where we recruit highly skilled personnel, provide them costly training, and then fight to induce these individuals to remain on active duty when they face

uniquely difficult or dangerous missions, coupled with powerful financial incentives to leave the military for the civilian sector. Examples include career enlisted fliers, Navy SEALs, and Navy surface warfare officers.

Only 25 percent of our surface warfare officers remain on active duty through their department head tour, which normally comes between the sixth and eighth year of commissioned service. During the drawdown, this wasn't a particular problem, but now with smaller numbers of ships in the fleet, we simply don't have the officers to maintain and man critical at-sea billets.

In the Navy SEAL community, attrition has increased over 15 percent in the past 3 years, while demand for these highly trained individuals by our warfighting CINCs has increased sharply.

In fiscal year 1998, manning in another category of highly trained and difficult individuals—Navy divers—was below 85 percent. That same year, only about 60 percent of our military career linguists met or exceeded the minimum requirements in listening or reading proficiency. A host of retention problems exist for nuclear-qualified officers and enlisted personnel as well.

The amendment does several things. It establishes a special pay for surface warfare officers and Navy SEALs to encourage them to remain in the service at critical points. It provides added incentive pay for our Navy and Air Force enlisted aircrews. Several existing bonuses are increased, including those for divers, nuclear qualified officers, linguists, and other critical specialties. Finally, the enlisted bonus ceiling is increased.

These are critical remedies for critical specialties. The Nation simply can't afford to continue to pay as much as we do to recruit and train these talented individuals only to see them leave the service out of frustration over the inadequacies of their pay and benefits.

Madam President, this special and incentive pay amendment to S. 4 is exactly the kind of targeted “fix” Congress can and should support, and I hope our colleagues will support it when we bring S. 4 up for the votes.

I also intend to offer an amendment to modify existing title 37 legislation with respect to the bonuses we pay to our career aviation officers.

The impact of poor officer retention has been particularly hard on our pilot communities. For example, overall Navy pilot retention decreased to 39 percent in fiscal year 1997 and further declined to 32 percent in fiscal year 1998. This trend is expected to continue for the foreseeable future.

While continuation of midlevel officers represents the greatest aviation retention challenge, there has also been an increase in resignations of more senior aviators, particularly due to intense competition from private industry. To address these problems, the

services have identified a requirement for greater flexibility with their principal aviation retention shaping tool known as aviation continuation pay, or ACP.

The amendment that I have just described would allow the services to do just that. ACP is currently limited to 14 years, and only covers officers in the grades 0-5 and below. This amendment would pay ACP up to 25 years, and expand eligibility one grade to cover officers at the 0-6 level. The maximum aviation continuation payment allowed for each year of additional obligation would go up from \$12,000 to \$25,000.

Finally, the provision recognizes the aggregate retention needs of the services by eliminating the requirement to annually define critical aviation specialties.

These refinements to title 37, along with other innovative compensation initiatives this body will consider, should begin to reverse the steady downward trends in aviation retention by allowing each service to tailor compensation programs to meet their specific retention challenges and accommodate their unique career path requirements.

I might add that both of these amendments I have referred to have the full support of the Department of Defense.

With that, Madam President, I yield the floor. Again, I thank my distinguished colleague from Colorado for his courtesy.

Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. Madam President, S. 4, The Soldiers', Sailors', Airmen's and Marines' Bill of Rights Act of 1999, may be the most significant national security legislation approved by the Senate this year. It will provide the basis for major improvements in the welfare of our military personnel and their families, recruiting and retention and, in turn, the readiness of our Armed Forces.

Although I was a cosponsor of the bill introduced by the leadership, the bipartisan bill reported out by the Armed Services Committee is a stronger piece of legislation because it includes a provision revising the benefits under the Montgomery GI bill. This provision proposed by Senator CLELAND will be a major recruiting incentive and provide significant educational benefits to our military personnel and indirectly to families.

Madam President, despite initial criticism by some officials in the Department of Defense, the provision in the bill providing an option to the career service member to choose a \$30,000 bonus and stay in REDUX or a 50 percent retirement is gaining support among the military community. The initial criticism that by choosing the bonus over full retirement would short

change the individual was based on incomplete data. The fact is that a Sergeant First Class in the Army who retires at 20 years under REDUX, who invested the bonus five years earlier in a tax deferred stock fund, would gain \$46,000 more in lifetime benefits than an identical retiree under the full retirement plan.

Madam President, I understand there are concerns, which I share, regarding the potential cost of the bill. Although we have to consider cost, we must also remember that we have the best all-volunteer military in the World. If we are to maintain that caliber force, we must be prepared to pay for it. I support the bill before us and urge the Senate to demonstrate bipartisan support for the bill and for our soldiers, sailors, airmen and Marines.

Madam President, as a final comment, I want to congratulate our new Chairman of the Armed Services Committee, Senator WARNER, and the Majority Leader, Senator LOTT, for designating S. 4 as the first bill considered by the Committee and the Senate. This gesture sends a strong message to our military personnel that they and our national security are foremost in the Senate's interest.

Madam President, I ask unanimous consent that a letter from the Chamber of Commerce of the United States of America on this subject be printed in the RECORD.

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

CHAMBER OF COMMERCE OF THE
UNITED STATES OF AMERICA,

Washington, DC, February 18, 1999.

Hon. STROM THURMOND,
U.S. Senate, Washington, DC.

DEAR SENATOR THURMOND: The U.S. Chamber of Commerce, the world's largest business federation, representing more than three million businesses and organizations of every size, sector, and region, strongly urges you to support S. 4, the Soldiers', Sailors', Airmen's, and Marines' Bill of Rights Act of 1999.

After many years of defense spending cuts, it is now time to reverse the trend and begin focusing on appropriate measures to ensure the United States Military is able to recruit and retain skilled military personnel. Under the provisions of S. 4, the basic pay for members of the uniformed services would increase by 4.8%, effective January 1, 2000.

The U.S. Chamber is concerned about military retention and readiness because without these fundamental aspects of a strong National Security policy, the continued prosperity of the United States economy would be threatened. Within this policy, the United States must stem the erosion of qualified personnel from our armed forces to ensure an adequate level of readiness. Although S. 4 will not address all aspects of military retention, it will send a strong signal that the United States recognizes and appreciates the critical work of members of the United States Military. Thank you in advance of your support for S. 4.

Sincerely,

R. BRUCE JOSTEN,
Executive Vice president,
Government Affairs.

Mr. ALLARD addressed the Chair.

The PRESIDING OFFICER. The Senator from Colorado is recognized.

Mr. ALLARD. Madam President, I thank the Senator from South Carolina for his remarks, and I appreciate the leadership he has shown over the years on the issues that are important to the Armed Services Committee, on which I serve with him. It is an honor to serve on the committee with both he and Senator WARNER as chairman.

First, I want to commend the Chairman for his efforts. Senator WARNER's leadership on ushering S. 4 to the Senate floor has been significantly important. Without his insistence and courage to move ahead, we could not be where we are today on this bill.

I'm glad this is the first bill to come before the Senate, not just for substantive reasons but for the message we are sending to our men and women in uniform. They put their lives on the line everyday for our freedom and they need to know they will receive what they earn. We need to continually send the message that we care about them and the families they have to leave while on duty.

Unfortunately, I believe this message has not been sent during the last six years. From the Secretary of Defense down, we have been hearing the difficulty the services have had in recruiting and retaining their service personnel, and complaints about the gap between the military and civilian pay. During the last six years, the defense budget has decreased 25 percent in real economic terms, while at the same time our troops have been sent abroad 45 times—and this doesn't include the latest journey into Kosovo. I do not now want to argue the need for all these deployments, but I will say that we cannot keep asking our armed services to do more and more while giving them less and less. This trend must be reversed and fast. S. 4 is the first step in changing this downward trend. But, better pay and benefits is only one step in improving the quality of life for our soldiers. Soon, we must address the problems of frequent deployments, prolonged absences, readiness shortfalls and the other myriad problems facing our military or else all the important changes in this bill will be lost.

The first problem I want to address is the issue of pay. If we want to keep the best and brightest then we need to pay them at levels favorable with salaries in the private sector. The current pay gap is anywhere between 5.5 to 13.5 percent and is projected to exceed 15 percent by the year 2005. Pay raises have lagged behind the average private sector raises for 12 of the last 16 years. I agree with Secretary Cohen and General Shelton when they say that we can never pay our military personnel enough, but we can pay them too little—and that is what has been done over the last decade.

S. 4 provides a much needed 4.8 percent pay raise, the first major raise since 1982. I point out that the 4.8-percent pay raise is the first major pay raise since 1982.

This may not erase the pay gap problem, but at least it is a start to giving

the military what they deserve for the long hours they provide in the defense of our Nation.

One horrendous example of this low pay is the enlisted soldiers on food stamps. The first time I heard that we had military personnel on food stamps I was outraged. Thanks to Senator MCCAIN's and Senator ROBERTS' efforts, S. 4 will address this problem.

According to the Department of Defense, over 11,000 service members are eligible to receive food stamps. Almost as staggering as this problem was the response given to it by the administration. According to a 1997 AP story in the Colorado Springs Gazette newspaper, Pentagon spokesman Kenneth Bacon said, "It's too bad, but it's a function of the size of their family more than anything else." He said that the problem has been around for decades. He said today, "More soldiers are married and have families than in the past."

While I agree with size of the families being a factor, I disagree that this is just "too bad." It is wrong and must be addressed immediately. But since that statement in 1997, the administration has done nothing to fix the problem. That is why I am happy that S. 4 will no longer just say "too bad." This bill will provide \$180 per month subsistence pay for enlisted personnel in grades E-5 and below who voluntarily demonstrate an eligibility for food stamps. The allowance, along with the pay raise, is estimated to help nearly 10,000 military personnel climb above the food stamp wage scale.

Also, a January 31, 1999, Denver Post article highlights another problem associated with low pay, and that is retaining highly trained personnel. The 3d Space Operations Squadron, whose personnel fly our military satellites from Schriever Air Force Base in Colorado Springs, has starting salaries of \$13,000. However, it should be of no surprise that these highly trained personnel are being coaxed to leave the military for the private sector with starting salaries of over \$50,000. While there is no way the military can compete with salaries such as these, a pay raise will help ease the problems of keeping these personnel.

The article also points out that the 3rd Space Operation has a turnover as high as 45 percent. With the commercial space industry booming, especially in Colorado, many of these companies will pay top dollar for these young men and women who haven't even been certified on satellites but have the highly technical training. This results in higher spending in order to train the new people for the vacant slots.

At this point, I ask unanimous consent to have printed in the RECORD this Denver Post article.

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

[From the Denver Post, Jan. 31, 1999]
 SATELLITE SAVVY DRAWS DOLLARS—AIR
 FORCE TRAINING IN BIG DEMAND
 (By Erin Emery)

SCHRIEVER AIR FORCE BASE.—Airman Faith Boyd is a 20-something mom with a high school diploma and a job in which making a mistake can have life-and-death consequences for warriors in the field.

Boyd works behind the razor-sharp fences at Schriever Air Force Base, a place that some people say has the feel of a top-secret Area 51. Here, on the barren plains 15 miles east of Colorado Springs, the nation's Department of Defense satellites—about 60 of them worth \$40 billion—are controlled.

Boyd, 23, works in an air-conditioned room full of computers with other Generation Xers. She's assigned to the 3rd Space Operations Squadron, where the mission is weighted in responsibility. The job: manage and maintain satellites that relay communications for the military.

Starting salary: \$13,000 a year.

In two years, though, when Boyd's four-year commitment to the Air Force is completed, headhunters who recruit for companies like Lockheed-Martin, Motorola and Boeing will wine and dine her and try to coax her to leave the Air Force for a job in the private sector.

Starting salary: \$55,000 annually.

"I do feel lucky," said Boyd, who also helps teach newcomers to be satellite systems operators.

The robust commercial space industry is a \$51 billion enterprise worldwide that is expected to triple in size by 2006. As it continues to grow, so will demand for people who can control the satellites.

"You've heard of this guy Bill Gates?" Col. Mike Kelly, deputy commander of the 50th Space Operations Group at Schriever said of the head of Microsoft. "He's putting up Teledesic. He's going to fly a constellation of 288 satellites, the 'Internet in the Sky,' and he's going to need some people to fly them."

One of the places that recruiters will look is Schriever, at 2 SOPS and across the hall, at the 3rd Space Operations Squadron, where young people are controlling the Global Positioning System, a constellation of satellites that relay highly accurate navigational information. Last year, turnover was as high as 45 percent, said Maj. Lee-Volker Cox, operations flight commander. Some of that turnover represented people transferring to other jobs in the military.

"I think that probably the biggest retention issue facing Space Command is the growth of the civilian space industry," said Capt. Paul Hermann, a 1990 Air Force Academy graduate who works in 2nd Space Operations Squadron. "There is no place for those companies to go and get qualified people to do jobs."

EXPERIENCE HARD TO GET

There are about 560 satellites in space, and 1,000 more are scheduled to be launched in the next decade.

Schriever Air Force Base is one of the few places in the world where young people can get hands-on experience flying satellites.

"When you're looking for people in the satellite control business, that certainly is one of the places where you want to look," said Paul Unger, a vice president of Chicago-based A T Kearney Executive Search, which recruits people for executive jobs in the satellite industry. "It's one of those disciplines that you really have to be a by-the-book person. You have to be very disciplined to follow procedures, but you have to be able to snap into action and solve very complex problems that, at times, don't have by-the-book solutions."

But while companies are dangling big dollars in front of people, the Air Force is doing everything it can to keep them—except pay them \$55,000 salaries.

The Air Force is offering a \$4,000 signing bonus to people who agree to work in jobs like Boyd's and enlist for six years instead of four.

WEIGHING THE BENEFITS

Air Force officials are stressing the multitude of benefits offered in the service that may not be found in the private sector: free day care, free legal service and free membership to a base fitness center. Plus, airmen can get college credits for completing technical training and they get a stipend toward tuition to earn a college degree.

Across the military services, a 4.4 percent pay increase—the largest pay increase for service members in several years—kicks in Jan. 1, 2000.

Only five years ago, there wasn't much opportunity in the Air Force for enlisted people like Boyd. Officers out-numbered enlisted personnel three to one; now it is the other way around.

The Air Force has standardized the procedures—the commands that airmen type into computers—for contacting what people in the industry call "birds."

"The procedures say, 'If this happens, do this,'" said Capt. Porf Dubon, who writes instructions for satellite operators.

Standardizing procedures has resulted in dramatic changes in personnel, mainly in their ages.

"There can be nights when probably the oldest person is 25 or 26 years old," said Dubon, 32. "There can be nights when you'll have a crew of 18- to 20-year-olds here by themselves."

Some team members have college degrees, while others have high school diplomas.

After joining the Air Force, airmen take a test that measures aptitude for various professions. Those who have a knack for electronics get the opportunity to come to Schriever and learn to fly satellites. After six months of school—eight hours a day—they go to work controlling satellites but are shadowed by someone with more experience until they become certified satellite systems operators.

HEADHUNTERS CALLING

Sgt. James Butler, 30, who trains people to be satellite systems operators, said headhunters call him about twice a week.

While some companies are offering \$55,000 to do the same job he does in the Air Force, if Butler willing to move, he could make \$65,000 or more in Virginia or Maryland.

"No degree, just experience," Butler said. "We've had calls from people who will pay \$40,000 a year and the people haven't run ops yet, they're not even certified but they've had the training."

Even though Butler, who has been in the Air Force for 11 years, could practically double his salary if he took a job with a private firm, he'll probably stay put. He has only nine years until retirement.

The military is trying to improve its retirement plan so that personnel who entered after 1986 will get 50 percent of their basic pay after 20 years of service, not the current 40 percent.

Though \$55,000 a year looks pretty good, retirement at age 39 looks even better.

Mr. ALLARD. The retention problem is not just felt at space command but cuts across all the services. Secretary Cohen, General Shelton, and all the service secretaries and chiefs say that the men and women are our greatest assets, but, unfortunately, we are losing our greatest assets in mass numbers.

I ask the rhetorical question of whether we would let our planes and ships disappear. Then why should we stand by and let this happen? Planes, ships, tanks, guns, and the rest are useless without properly trained personnel.

The Air Force has stated they are 855 pilots short this year and expect to be short 2,000 pilots by the year 2002. This leaves the Air Force with less experienced pilots and higher training costs. Their enlisted retention is no better.

I would like to refer the Members of the Senate to a chart that I have drawn up here which points out the enlisted retention rate for 1998. The first term reenlistment goal is 55 percent, but in 1998 it was only 54 percent. The second term reenlistment goal is 75 percent but only achieved 69 percent. The career goal is 95 percent while only getting 93 percent reenlistment. This is the first time that the Air Force has failed to meet its retention goals in all three categories since 1981.

Some may believe these numbers are acceptable, but each and every percentage loss hurts the war-fighting skills and readiness across the board for the Air Force.

For the Navy, we only have to look at the recent examples of the USS Enterprise. While deployed in the gulf, the USS Enterprise was short nearly 600 sailors.

I look again to another chart where we talk about the Navy 1998 officer retention rates: surface warfare officers retention, only 25 percent, against a steady state need of 38 percent. Like the Air Force, the Navy aviator retention was 39 percent in 1997 and further dropped to 32 percent in 1998, which falls short of the 35-percent level required to fill critical department head and flight leader positions. Submarine officers had a 27-percent retention rate, which is far short of the 38 percent needed in fiscal year 2001 in order to meet the stated manning requirements. For the vaunted SEAL forces, their rates have fallen to a dismal 58 percent from a historical level of over 80 percent.

The only good news comes from the Army and the Marines. These branches have met their retention goals but have said that they are having major problems in critical war-fighting skill areas which must be addressed to stay at current readiness.

All of these numbers are not to glaze people's eyes over but to open some eyes to the problems our military is facing. These retention problems are real and must be addressed. Inadequate retention only heightens the problems of longer deployments, increased frequency of deployment, and longer work hours due to less personnel.

This not only places our military in precarious and dangerous situations, but places great stress on their families and loved ones.

S. 4 addresses these problems through pay table reforms that focus

the emphasis on those retention problem areas—midcareer NCOs and officers. It will reward promotion and achievement over longevity with bumps in pay ranging from 4.8 percent to 10.3 percent. Plus, we provide new incentives to the services to address their other specific problem retention areas.

According to the Pentagon, another retention problem, and one of the major complaints, is the current Redux retirement system for those who entered service after 1986. I understand the repeal of the current system is one area that is problematic for some Senators. But we have taken the Secretary, the JCS, and all the service secretaries and chiefs at their word that Redux needs to be repealed. No matter how one comes down on this issue, if the retirement system is a retention problem, it simply cannot be ignored. That is why S. 4 addresses the problem in what I believe is a responsible manner. Service personnel who entered the military on or after August 1, 1986, will be given the option to return to the pre-1986 retirement system of 50 percent of base pay for the average of the 3 highest years or take a \$30,000 bonus to stay in the Redux system, which is 40 percent of the 3 high years.

In addition, the bill allows service members to participate in the Thrift Savings Plan by placing up to 5 percent of their pretax base pay into one, or any combination, of the TSP's funds—the G, or government securities fund; the F, or bond fund; the C, or common stock fund.

Further, the bill allows service members to place any enlistment, reenlistment, and the \$30,000 lump-sum bonuses into their TSP.

Unlike General Shelton, I don't find the \$30,000 bonus an insult, but an innovation in providing more market base and higher yielding—a higher yielding retirement fund.

To show you how this can work, here is a chart from an article in the *Army Times*. It is the third chart I am showing here on the floor where it shows the various pay grades and how the retirement options might be affected through those pay grades.

If we look at E-6 with 20 years, the Redux was \$378,394; pre-1986 it was \$489,942; but then we go to the Redux/bonus and then the buildup in the bond fund is substantial, the buildup shown on the chart would be \$477,174; and if the Redux was invested in a higher yield fund such as the stock fund, we would look at somewhere around \$553,826.

These figures have been projected on this chart through the various grades of E-7 for 20 years, E-7 for 23 years, E-8 for 28 years, and E-9 for 30 years, with the concomitant change in bonus, and how those dollars would build up within those funds, and they are substantial.

I think it is an innovative and very interesting approach to dealing with the retirement and retention problems of our military services.

Another interesting aspect from this article is, according to the Retired Officers Association, for every service member who accepted this bonus, the Government will save about \$66,000 per member. In the end, the service men and women could have a higher retirement, while at the same time saving the Government money. Insulting? No. Innovative? I say yes.

On a side note, I want to give credit to our very able committee staffer, Charlie Abell, for this idea and congratulate him for this innovation. Some ask, "Will they use this bonus wisely?" I believe if we can ask our military men and women to take care of billion-dollar equipment and put their lives on the line for us, we should be able to trust them with their own money.

Second, as everyone knows, financial counseling is a must for anyone who plans for retirement. I hope the military is currently providing these services. Let's give the military the option and ability to control their own retirement and best fit it to their needs.

A final effort in this bill is to use Government matching funds for TSP accounts or Thrift Savings Plan accounts as a retention tool. We give the service Secretaries the flexibility to offer up to 5 percent matching contributions for 6 years in return for a 6-year commitment in skill areas that they deem necessary. This gives the services the ability to fix their own needs with all the tools available to them.

Finally, I want to touch on the problem of recruitment. All we have to do is look to the front page of the February 17, 1999, *Washington Post*. The below-the-fold headline reads, "Military Lags in Filling Ranks." In the story, Army Secretary Caldera says that the Department of Defense needs to allow the Army to recruit more high school dropouts with GEDs to make up the 10,000-soldier shortfall this year.

At this time, I ask unanimous consent to have the *Washington Post* article printed in the RECORD.

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

[From the *Washington Post*, Feb. 17, 1999]

MILITARY LAGS IN FILLING RANKS

(By Dana Priest)

Army Secretary Louis Caldera argued yesterday that the Defense Department should allow the Army to recruit more high school dropouts with equivalency diplomas to help make up a projected shortfall of as many as 10,000 soldiers this year.

Caldera's idea, which would require a change in standard adopted five years ago, reflects growing alarm within the Army, Navy and Air Force that they are failing to attract enough recruits from the new generation of young adults and that the shortage will only get worse if the trend is not reversed.

"Frankly, right now we have rules that don't make sense," he said. The rules have "put us in a box that really hurts. Every day we turn away people who want to join."

Like the Air Force and Navy, the Army is facing the worst peacetime recruiting short-

fall in its history. Of the major services, only the Marines have attracted a sufficient number of recruits in recent years.

Contributing factors include a strong economy, fewer surviving military veterans to act as role models for their sons and daughters, and a less adventurous mission as the services adjust to the post-Cold War world without a clearly defined enemy.

Caldera said the Army should adopt other means of testing a potential recruit's abilities and should allow in more high school dropouts who have passed high school equivalency tests.

"The Army is an institution that should not write off young people in America who need a second chance," he added at a breakfast with defense reporters. "The military should not be the one that slams the door of opportunity in your face."

Under Defense Department policy, 10 percent of new recruits are allowed to be high school dropouts who have passed the high school equivalency test and score well on armed services entrance exams. But for many years, especially during the downsizing of the 1990s, the services set much higher standards in practice. They either required that all new recruits have high school diplomas or allowed in only a few with the equivalent of a diploma.

But as downsizing bottomed out several years ago and the economy got stronger, recruiting stations went empty.

The Army fell 2,300 short of its recruiting goal in the first quarter of fiscal year 1999 and Caldera said the projected shortfall could go as high as 10,000 this year.

The Navy faced 6,900 empty positions last year. Although it has reached its goal in the first quarter of fiscal year 1999, last month it announced it will increase from 5 to 10 percent the number of high school dropouts it accepts.

The Air Force, which has faced a severe pilot shortage for several years, projected it will be 2,000 pilots short of the 13,641 it says it needs by 2002. In addition, the Air Force had a shortfall of 421 in its enlisted ranks for the first quarter of this fiscal year and continued to slip in the second quarter, said Air Force officials.

"We're coming up on the greatest shortage we've ever had in peacetime," said Lt. Col. Russ Frasz, an Air Force recruiting official.

The services have responded to the problem with signing bonuses, retention bonuses and more money for college education. They have also put thousands more recruiters into the field and tens of millions of dollars into new advertising campaigns.

The Navy, for example, put 500 more recruiters on the streets last year, opened 150 new recruiting stations and increased its advertising budget this fiscal year from \$58 million to \$70 million.

What it got in return was 9,012 new sailors, nearly 800 more than it needed. But that was only for the first quarter of the year and, given the shortfall in recent years, no one in the Navy is relaxed about the future.

"We are getting back on track but there is still hard work to do," said Rear Adm. Barbara McGann, the Navy's top recruiting official.

Caldera, a lawyer and former member of the California legislature who took over as Army secretary in July, said the long-term solution involves more than money and advertising.

Civilian leaders who grew up in the activist 1960s have failed to make the case to the new generation that military service should be a civic responsibility, he said, adding: "There are young people out there who are hungry for someone to talk to them about responsibility."

HELP WANTED

Most branches of the military have not been meeting their recruitment goals.

(Fiscal year first quarter)

Branch	1998—		1999—	
	Goal	Actual	Goal	Actual
Army	72,550	71,749	12,420	10,120
Air Force	13,986	13,338	7,532	7,111
Navy	55,321	48,429	8,216	9,012

Source: Defense Department.

Mr. ALLARD. Madam President, if you look at this chart we see the problems the services are having in recruiting. This is the fourth chart on the floor that I have provided.

In 1998 the Army fell almost 800 recruits short of their goal, and are over 2,000 recruits short of their first quarter goal.

If we look at the Air Force, the Air Force's 1998 number was 600 recruits short of their goal and over 400 recruits short in the first quarter.

Also, for the first time ever the Air Force will advertise on television to increase their lagging numbers.

The Navy's 1998 shortfall was 6,892 recruits. While it met its first quarter, they had to raise their high school dropout rate acceptance from 5 percent to 10 percent.

These are troubling numbers and these numbers are one of the reasons why the Personnel Subcommittee, which I chair—my good friend, Senator CLELAND, is the ranking member—has called for its first hearing to focus on recruitment and retention problems. We cannot allow our armed services to become hollow due to the lack of personnel. The best way to ensure that we recruit and retain the best and brightest is to pay them the wages they deserve and provide the benefits to keep them.

While S. 4 does not directly address recruitment, it does make changes which we believe will assist our military recruiters. Beyond the pay raise incentives, the bill enhances the Montgomery GI bill benefits. S. 4 will eliminate the \$1,200 contribution required of members who elect to participate in the GI bill, increase monthly GI bill benefits anywhere between \$60 to \$70, allow service members to transfer education benefits to immediate family members, and then to accelerate lump-sum benefits for an entire term, semester, or quarter at college, and full amounts for courses not leading to a college degree.

The Armed Services Committee believes that these enhancements will make entering the military more attractive to more people, especially when the private sector offers so many more options than in the past.

I will conclude with a few personal thoughts. I understand that this bill is not acceptable to all Senators, but if you plan on voting no, I ask that you think about a few people—the young service man or woman who is about to be sent to Kosovo, or the service member who is coming back from Bosnia, or even second tour of Bosnia; or about the pilot patrolling the no-fly zone in Iraq; or the sailor who is doing double duty because his ship is undermanned

and so he will have to be away from his family longer than necessary. How will you tell them that they are not worth the extra money in S. 4?

Let me finish with a statement from a letter which I believe was printed in the National Association of Uniformed Services Journal and reprinted in the Northern Colorado chapter of the Retired Officers Association's newsletter, entitled, "Why Am I Getting Out?"

The bottom line is "Patriotism is great, but it doesn't put food on the table or provide for your family." One soldier who requires food stamps is a shame. We can do better for those from whom we ask so much.

Madam President, I yield the floor.

Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. SESSIONS. Madam President, I am honored to join with the distinguished Senators who have been sponsoring and working for the passage of the bill that we believe will help our soldiers, sailors, airmen, and marines to increase their pay, their retirement benefits, and other benefits. They will know that this Nation affirms them, believes in them, and cares about them, and is not going to stand by and allow recruitment and retention to go in the tank and to not give them the kind of pay and benefits they have to have to live in this world.

We have taken advantage of them in many ways, and it is time to put an end to that. We have done a lot of things to reduce our defense structure. In 1992, we had 1.8 million men and women in the services. By the year 2000, we will be at 1.38 million. We will drop another 24 percent during this period of time. But we, at the same time, increased the pressures and responsibilities our service men and women are facing. They are being sent around the world at greater and greater rates.

The operational tempo—the OPTEMPO they call it—has never been higher. I had the opportunity recently to be with an Air Force officer in Montgomery, AL, at Maxwell Air Force Base. He told me he was in Bosnia and received orders to be stationed in Korea. He called his wife who was then in Montgomery and explained this situation to her, and she replied, "Well, you can go to Korea, I'm going back to North Carolina."

These kinds of assignments may sound easy to people sitting in Washington, but it is important to families. They will do it. Our soldiers and sailors give of themselves and sacrifice on a regular basis, but they need to know we care about them, that we are willing to pay them a decent wage, that we are going to maintain good retirement benefits and health care benefits for them.

There has been a lack of confidence in that, and that, I believe, is one reason retention is down—that and a good economy; people have more choices. We have reduced our enlistment rates. It is harder and harder to enlist and most of the services are not meeting their enlistment rates now, their goals.

It is a matter of real importance. I salute Senator WAYNE ALLARD who chairs our Personnel Subcommittee on Armed Services for his leadership, and Senator JOHN WARNER, the chairman of the committee, who made this a top priority. We don't want to wait around with it. We want to pass it early this session, and we want to be able to send a message to the men and women who stand ready at any time to defend this Nation, to send them the message that we care about them, we are hearing their concerns, and we are going to respond to them.

I recently had a conversation with a senior retired officer. We were talking about the need to restore the 50-percent retirement. He said one of the concerns that he had and that he was hearing among our service men and women is that older NCO's—noncommissioned officers—are saying to younger NCO's, "Well, I got a 50-percent retirement; sorry, you're not going to get that," and it makes them feel less appreciated. It makes them feel like they are not getting a fair shake, and it makes them more and more willing to give up a service that they may really love and enjoy and believe in and take a job in the private sector.

So I think there are a lot of reasons why changing this retirement benefit from 40 to 50 percent is what we need to do, and I salute Senator ALLARD for it.

I am also an absolutely committed supporter of the Federal Government's Thrift Plan. I think it is one of the best ideas that has been done for the men and women who work for the U.S. Government, and extending it to the military is a great idea. It should be done. They will make their contributions, in effect, to an IRA.

As years go by, they will see that fund—that is, their fund—increase and increase over the years. They will feel that that is an additional benefit, an additional basis to stay in the active service of their country in the military and not get out at an earlier time.

I think it is also terrible, really shameful, that we have allowed large numbers of our service men and women to have to ask for food stamps. They qualify for food stamps. That is something we must end. I believe this bill understood that, and it will end that and give them the opportunity to receive other compensations than having to go down to the food stamp office to ask for those benefits. I think we owe them that.

Finally, Madam President, let me just say this. I talked to a senior officer just today about the military and about this bill. He was extraordinarily supportive of it, but he told me this. He

said it is really more than just the money. Our people who make their career in the service of this country, who are prepared at any time to give their life for their country, those people, those men and women, are committed to public service. And what we need to do most of all is to affirm them and to raise up the respect we give to them. They are prepared, at a moment's notice, to go in harm's way for the people of this country.

So I believe this bill, in a way, does that. It is saying: We are hearing your concerns. We are going to move promptly. We are going to make this legislation one of the top priorities of this Congress. We are going to move it out of here quickly. And we are going to get a raise to you and retirement changes that will benefit you, that will end food stamps for you, and give you a Thrift Plan opportunity you have never had before. We are going to say we care about what you are doing. We thank you for your service.

I believe that is the kind of signal we need to send. It is not all. We have to deal with such things as spare parts, a national missile defense. We have to decide whether we have enough people in the military now. All these kinds of things we are going to be dealing with later on in the year. But right now we need to move with this legislation.

I thank the majority leader, TRENT LOTT, for being an early sponsor and supporter of it and for making a commitment to bring it up at an early time. And again, let me say how much I have been honored to serve with Senator WAYNE ALLARD. He chairs the subcommittee where this legislation has begun. He is doing an outstanding job for our Nation in so many different ways but particularly as chairman of this subcommittee. I am also pleased to see Senator LEVIN here. He is the ranking member of this committee and is committed to our Nation's strength and defenses. And it is a pleasure to see that this legislation is moving forward in an expeditious manner.

Thank you, Madam President.

Mr. ALLARD addressed the Chair.

The PRESIDING OFFICER (Mr. BUNNING). The Senator from Colorado is recognized.

Mr. ALLARD. I would just like to state that that was a great statement that my colleague from Alabama made. And I just want him to know what a pleasure and honor it is for me to be able to serve on Armed Services with him. We came together into this august body, and I look forward to many years of working with him and trying to shore up the defense of this country.

Mr. JEFFORDS. Mr. President, I have long been a strong advocate for a well-educated American work-force. Vermont's quality of life is related closely to the educational opportunities available to her citizens. Education is a cornerstone of our healthy economy. These same notions apply with similar effect to our men and women in the military. Modern, tech-

nologically advanced systems and complex missions depend on the skills and wisdom of well-educated personnel. S. 4 modestly enhances the educational opportunities for our men and women on active duty. It should do the same for the members of our Guard and Reserve.

Consequently, I strongly urge my fellow Senators to support the three education-related amendments which Senator CLELAND and I will be offering to S. 4, the appropriately named "Soldiers', Sailors', Airmen's and Marines' Bill of Rights." It is appropriate because one's use of the term "Bill of Rights" invariably suggests the concepts of fairness and equity.

Perhaps Secretary of Defense William Cohen had this in the back of his mind in September of 1997 when he instructed the Department of Defense to eliminate "all residual barriers, structural and cultural" to effective integration of the Guard, Reserve and Active Components into a "seamless Total Force." Precisely one year later his Deputy, John Hamre, looked back to that day and observed:

We have made great progress integrating our active and Reserve forces into one team, trained and ready for the 21st century. Our military leaders are getting the message. Structural and cultural barriers that reduce readiness and impede interoperability between active and Reserve personnel are gradually being eliminated. We must now assess the progress we have made, acknowledge those barriers to integration that still exist, and, most importantly, set our plans into motion.

If these wise words are to have full effect we must work to rectify an oversight in S. 4, which, as written, enhances educational benefits for a portion of our seamless Total Force but neglects the remainder. Consequently, to promote parity among all components of our military I will be offering the following three amendments:

The first: Allow members of the Guard and Reserve the ability to accelerate payments of educational assistance in the same manner currently provided in S. 4 to the Active Duty military.

The second: Allow members of the Guard and Reserve the ability to transfer their entitlement to educational assistance to their family members in the same manner currently provided in S. 4 to the Active Duty military.

The third: Allow members of the Guard and Reserve who have served at least ten years in the Selected Reserve, an eligibility period of five years after separation from the military to use their entitlement to educational benefits. (Active duty military members have a ten year period.)

Just a few weeks ago, four Reserve Component members lost their lives when their KC-135 went down in Germany while flying active duty missions for the Air Force. Death did not discriminate between Active and Reserve Components. Nor should S. 4.

The opportunity to face this ultimate risk will only increase as we do place greater demands on our Guard and Re-

serve units to participate in our global missions. Since Operation Desert Storm the pace of operations has swelled by more than 300% for the Guard alone and is widely expected to climb higher.

We all know the value of the Guard and Reserve for missions close to home. In Vermont they saved our citizens from the drastic effects of record setting ice storms last winter. Recently, other units helped with hurricanes in Florida, North Carolina and South Carolina. They assist our citizens during droughts and blizzards. They enrich our communities with Youth Challenge programs and they conduct an ongoing war on drugs. Just last year we added protection of the U.S. from weapons of mass destruction to that list, and the list keeps growing.

It is now time to bring their educational benefits in balance.

As many of you know, I believe in the value of life-long learning to our society. Access to continuing education has become an essential component to one's advancement through all stages of modern careers. S. 4 modestly improves this access for our brave men and women on active duty. It should do the same for our Guard and Reserves.

I urge my colleagues to help bring parity, equity and fairness to the educational opportunities available to all components of our military. The Guard and Reserve have been called upon increasingly to contribute to the Total Force. They face similar challenges to recruiting and retention. They should have similar access to educational opportunities.

Mr. President, let me now turn to another important amendment Senator CLELAND and I will be introducing. Specifically, we propose allowing our men and women in the Guard and Reserve the opportunity to participate in the Thrift Savings Plan (TSP) in the same manner S. 4 provides to their colleagues on active duty.

Allowing members of the Guard and Reserve to participate in the Federal Employees TSP is long overdue and I strongly support the proposal to make it law. This program is good for federal workers and it would benefit members of the Guard and Reserve financially for them to participate in the TSP. Under this system, they would be the sole contributors to their accounts, much like civil servants who are under the old Civil Service Retirement System. Since there would be no federal match to their accounts the cost would be very low to the branches of the military and to the taxpayers, as well. Additional savings in individual accounts will be important to those individuals who serve our nation in regular, but temporary capacities. The payroll deduction feature of the TSP is an easy way to save. The accounts are managed prudently by the Thrift Savings Board. Participation in the system is high and satisfaction with it is also very high.

Those of us on the Health, Education, Labor, and Pension Committees have

been spending quite a bit of energy trying to encourage Americans to save more money. As a New Englander, I speak for my constituents when I say that we know a lot about THRIFT. This is a good amendment that will encourage thrift and I hope my colleagues will support it.

Given that our Guard and Reserve are shouldering an increasing share of our world-wide missions, they should have the same savings opportunity that S. 4 gives to the active duty. Now is the time to ensure that our reserve component personnel are not overlooked.

Mr. BURNS. Mr. President, I am pleased to rise to join my Senate colleagues in supporting the Soldiers', Sailors', Airmen's, and Marines' Bill of Rights as it comes to the floor for debate. As a former Marine, I am especially proud that the Senate Armed Services Committee has recognized the important contribution of my branch of service by including Marines in the title of this bill.

This bipartisan legislation addresses the critical need of improving retention in our military services. We've heard much over the past months about the impending crisis in maintaining the force strength of our military. For example, the Air Force has missed its recruitment targets for the past three months, in all three of its recruitment categories. This is the first time that the Air Force has ever faced this problem. It is critical that we intervene now while the problem is still manageable. This bill concentrates on improving the attractiveness of a career in the military, not only for new recruits, but also for second and third term reenlistments.

First, this bill raises the pay of service personnel to keep salaries competitive with civilian equivalents. Second, it provides incentives for active duty personnel to keep longer service commitments by repairing the damage done in 1986 to the military retirement system. Third, this bill provides service members with the opportunity to save for their own retirement by allowing military personnel to contribute up to 5% of their base pay, before taxes, into the Thrift Savings Plan. Finally, this bill enhances the Montgomery GI Bill educational benefits. I'm also aware that some of my colleagues will be offering other amendments that will further enhance the incentives for long term service. These collective changes encourage both current and prospective service members to make the military an attractive alternative for an extended career.

One of the first commitments in the Constitution is to provide for the common defense. We're demonstrating our commitment to the Constitution and our nation's defense today by taking this first step in improving the long-neglected quality of life for our service members. As we have already seen, when we don't take care of the people

who are out in harm's way, they end up leaving the service. We have almost reached the point of needlessly risking the lives of those members choosing service careers due to the increased commitments required of them.

So, we shouldn't just stop with this bill and call our work complete. Pay and Retirement incentives are not the only concerns voiced by military personnel when they discuss quality of life. They care about being able to participate in their family's activities. They want to be able to help raise their children. They want to provide a home for their families where the roofs don't leak and the water and sewer systems work. They want to be trained to handle the weapons they must use to maximize their ability to survive in a fire-fight. In our push to pass this piece of legislation, let's not forget that these other quality of life issues that service men and women weigh when they consider the military as a life-long career. As a next step, we should commit to eliminating the military construction backlog that has grown to a 100-plus-year maintenance cycle at its current funding level. Those who have seen military action in the Gulf or Panama or other regions will ask how Veterans are treated. We should commit to improving veterans' health care and access to the VA system. No service member is naive enough to believe that military life will be easy or without sacrifice. However, we shouldn't intentionally be making the sacrifice for duty greater than it needs to be. Nor should we let the administration's promise of improving true quality of life stop at pay and retirement benefits. We owe it to our service members to continue addressing all areas of quality of life to make sure that our commitment of defense for the citizens of the United States is both real and effective. I'll be using my position on the Appropriations Committee as well as chairing the Military Construction Subcommittee to push for additional improvements in these other important quality of life issues.

But let's not forget why we are here today. As demonstrated globally, the quality of our uniformed service personnel is second to none. By providing focused incentives for increasing the attractiveness of a military career, we ensure that our services will sustain its worldwide competitive edge. We owe it to the parents, spouses, and children of our service members to make sure that their physical devotion to patriotism doesn't come at fiscal expense. This bill is a critical first step in meeting our commitments to both family and country. I strongly encourage my colleagues to vote for its passage.

Mr. ALLARD. Mr. President, I yield back the remainder of my time, and I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. BUNNING). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

MORNING BUSINESS

Mr. ALLARD. Mr. President, I ask unanimous consent that there now be a period of morning business with Senators permitted to speak for up to 5 minutes each.

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

TRIBUTE TO LIEUTENANT COLONEL CHASE MOSELEY, U.S. MARINE CORPS

Mr. LOTT. Mr. President, I wish to take this opportunity to recognize and say farewell to an outstanding Marine Corps officer, Lieutenant Colonel Chase Moseley, upon his retirement from the Marine Corps after more than twenty-one years of commissioned service. Throughout his career, Lieutenant Colonel Moseley has served with distinction, and it is my privilege to recognize his many accomplishments and to commend him for the superb service he has provided the Marine Corps and the Nation.

Lieutenant Colonel Moseley, a native of the State of Mississippi, graduated from the University of Southern Mississippi and was commissioned a Second Lieutenant through the Platoon Leaders Class Program in 1978. Since then, Lieutenant Colonel Moseley has spent his career patrolling the world's skies as a Naval Aviator. Following flight training, he began his service flying the F-4 Phantom in Marine Fighter Attack Squadron 531 in El Toro, California. After his tour in California, he reported to Marine Fighter Attack Squadron 232 in Kaneohe, Hawaii, making two deployments to the Western Pacific and Far East. In 1985, he reported to Marine Fighter Attack Training Squadron 101 in Yuma, Arizona for instructor duty. Completing F/A-18 training in 1987, Lieutenant Colonel Moseley was again assigned instructor duty, now flying the F/A-18 Hornet. During this tour, Lieutenant Colonel Moseley was selected to attend the Naval Fighter Weapons School (TOPGUN) and in July 1989 was selected to join the Naval Flight Demonstration Squadron "Blue Angels" in Pensacola, Florida. In 1991, Lieutenant Colonel Moseley reported to Marine All Weather Fighter Attack Squadron 242 in El Toro, California to assist in the squadron's transition to the new F/A-18 "Delta" (All Weather Night Attack) aircraft. During this tour, he completed two Western Pacific deployments serving as the Squadron Operations Officer and Executive Officer.

When not in the air, Lieutenant Colonel Moseley has like-wise served with distinction. In 1994, he served on the staff of the 5th Marine Regiment, 1st Marine Division, Camp Pendleton,

California as the Regimental Air Officer. In 1995, he was assigned to the Marine Aviation Department at Headquarters Marine Corps, Washington, D.C. to serve as the Congressional Liaison Officer for the Marine Aviation Plans, Programs & Budget Branch. During this tour, Lieutenant Colonel Moseley was selected for a Federal Executive Fellowship in a national competition sponsored by the American Political Science Association and Johns Hopkins University for its 1997-1998 Congressional Fellowship program. Upon completion of the Congressional Foreign Affairs program at Johns Hopkins University, Lieutenant Colonel Moseley was selected to serve as the Military Legislative Assistant to Senator TRENT LOTT, U.S. Senate Majority Leader. Among Lieutenant Colonel Moseley's many awards and decorations are the Meritorious Service Medal, the Navy Unit Commendation, Meritorious Unit Commendation with one star, the National Defense Medal, and the Sea Service Deployment Ribbon with 4 stars.

During his more than twenty one-year career, Lieutenant Colonel Moseley has served the United States Marine Corps and our nation with excellence and distinction. He has been an integral member of, and contributed greatly to, the best-trained, best-equipped and best-prepared expeditionary combat force in the history of the world. Lieutenant Colonel Moseley's strong leadership, integrity, and energy have had a profound and positive impact on the United States Marine Corps and the Nation.

Lieutenant Colonel Moseley will retire from the United States Marine Corps on April 1, 1999, after twenty-one years and three months of dedicated commissioned service. On behalf of my colleagues on both sides of the aisle, I wish Lieutenant Colonel Chase Moseley "fair winds and following seas." Congratulations on completion of an outstanding and successful career.

TRIBUTE TO THE HONORABLE SANDRA K. STUART, ASSISTANT SECRETARY OF DEFENSE FOR LEGISLATIVE AFFAIRS

Mr. LOTT. Mr. President, I would like to take this opportunity to recognize the outstanding work of the Honorable Sandra K. Stuart as the Assistant Secretary of Defense for Legislative Affairs. After nearly five years in this position, Ms. Stuart is leaving government service to pursue other opportunities in the private sector. She definitely will be missed by many of my colleagues on both sides of the aisle.

I have enjoyed working with Ms. Stuart on a wide range of matters affecting the Department of Defense. I always found her to be extremely knowledgeable and very effective in representing the Department's views. Despite the sometimes contentious nature of national security matters, Ms. Stuart always maintained a friendly and constructive approach to her work which served our Nation very well.

Ms. Stuart had the difficult tasks of coordinating the Department of Defense's legislative agenda. She has deftly balanced a wide range of Defense-related issues, including Bosnia, missile defense, health care, readiness, acquisition reform, and modernization. Because Ms. Stuart earned the trust and confidence of those with whom she worked, she was able to promote the Department's views very effectively in Congress.

Ms. Stuart's experience with the Congress predated her current position as the Assistant Secretary of Defense for Legislative Affairs. Before joining the Department of Defense in 1993, Ms. Stuart served as Chief of Staff to Representative Vic Fazio of California who recently retired from Congress. In addition to managing his Congressional staff, Ms. Stuart handled appropriations matters before the House Committee on Appropriations.

Ms. Stuart's legislative experience also includes work as an Associate Staff Member of the House Budget Committee and as the Chief Legislative Assistant to Representative BOB MATSUI of California.

Ms. Stuart is a graduate of the University of North Carolina at Greensboro and attended the Monterey College of Law. She is the mother of two sons, Jay Stuart, Jr. and Timothy Scott Stuart. She is married to D. Michael Murray.

Ms. Stuart earned the respect of every Member of Congress and their staffs through hard work and her straightforward nature. As she now departs to share her experience and expertise in the civilian sector, I call upon my colleagues on both sides of the aisle to recognize her outstanding and dedicated public service and wish her all the very best in her new challenges.

NATIONAL MISSILE DEFENSE ACT OF 1999

Mr. BURNS. Mr. President, I am pleased to join my colleagues in the Senate in sponsoring the National Missile Defense Act of 1999. This bill clearly states that the policy of the United States is to provide for the defense of its territory against a potential missile attack by a rogue nation.

A defense capability against missile attack is a necessity due to the increased threat of terrorism. An arms control commission formed to assess the missile threat to the U.S. concluded that "concerted efforts by a number of overtly or potentially hostile nations to acquire ballistic missiles with biological or nuclear payloads pose a growing threat to the United States, its deployed forces, and its friends and allies." Experts suspect that these countries are acquiring unaccounted-for Russian nuclear bombs as part of this development effort. Regional stability is being threatened by weapons programs in India, Pakistan, Iran, and others. North Korea is expected to be capable of a missile threat to U.S. citizens by 2010. The threat is

very real. The Rumsfeld Commission concluded that the United States may have "little or no warning" before facing a threat from these so-called "rogue states." We must find a way to defend ourselves against potential attack from any terrorist country.

I have long supported the three tiered development of a National Missile Defense. Under these criteria, a missile defense could be deployed after showing that (1) a specific missile threat has been identified, (2) the technology has proven to be effective, and (3) the system is deemed affordable. As stated earlier, we've clearly confirmed that the threat exists. The technology is proving to be increasingly available. Most importantly, in a period where we are investing in modernizing our defense capabilities, we would be negligent if we failed to fund such a fundamental element of defense for our citizens. Now is the time to commit ourselves to completing the three steps and deploying a missile defense for all Americans.

Senate Bill 257 is an important effort to document the will of the American people. With the increasing missile threat posed by outlaw countries, it is critical that the United States do everything in its power to prevent, reduce, deter, and defend against all weapons of mass destruction and missiles. I strongly encourage my colleagues to support the passage of this bill.

(Pursuant to a previous unanimous consent agreement, the following statements pertaining to the impeachment proceedings were ordered printed in the RECORD:)

TRIAL OF WILLIAM JEFFERSON CLINTON, PRESIDENT OF THE UNITED STATES

Mr. NICKLES. Mr. Chief Justice, the United States Senate has nearly concluded only the second impeachment trial of a President in history. We fulfilled our promise to conclude the process in an expeditious and responsible manner in accordance to the Constitution.

Americans understand there is really only one person to blame for this ordeal: Bill Clinton. He could have prevented the entire impeachment process if he had chosen the truth instead of lies and obstruction and the well-being of the nation instead of his own personal and political needs. He squandered his opportunity to provide trustworthy leadership on the important issues facing America.

The President's actions left the Attorney General with no choice but to ask the Independent Counsel to investigate. They left the Independent Counsel with no choice but to refer charges to the House of Representatives. They left the House with no choice but to impeach him.

The day Senators took that impeachment oath was one of the most serious, solemn times that I have experienced

during my 18 years in the Senate. Our oath was to do impartial justice, and that oath was in my mind as I weighed the facts, the law, and the Constitution.

The President took an oath too. He took an oath to tell the truth, the whole truth, and nothing but the truth.

I believe that clear and convincing evidence presented to the Senate demonstrates that President Clinton did indeed commit multiple acts of perjury, as alleged in Article I, and multiple acts of obstruction of justice, as alleged in Article II, and deserves to be found guilty on both articles of impeachment.

The President made a serious, serious mistake when he went to his Paula Jones deposition, raised his right hand and swore to tell the truth, the whole truth, and nothing but the truth, and then lied repeatedly. Following that, he committed more acts of obstruction and more lies, culminating in his testimony before the grand jury where he lied time and time again. He had obstructed justice and he had perjured himself in the Jones case, and he wanted to be consistent, so he perjured himself again.

One of many specifics, concerning his "conversations" with Betty Currie: "I was trying to get the facts down. I was trying to understand what the facts were." He wasn't trying to understand the facts. He knew what the facts were. He was trying to mislead a witness, and then he lied under oath after being begged, "Don't do it again, Mr. President."

I believe the public deserves, and the Constitution permits, that the Senate demand a high standard of conduct in its President. Rather than find a loophole to excuse the President's behavior, the Senate ought to find him guilty.

The President's counsel have attempted to frame the question before the Senate as "[a]re we at that horrific moment in our history when our Union could be preserved only by taking the step that the framers saw as the last resort?"¹ His lawyers are asking the wrong question. In fact, as Manager CANADY pointed out, under this standard even the deeds of Richard Nixon may not have been worthy of impeachment.² The proper question is not whether America would survive President Clinton remaining in office: that answer is yes. The proper question before the Senate is whether, knowing what we now know about his conduct, America should have to do so.

Another of the President's lawyers argued that "[i]f you convict and remove President Clinton on the basis of these allegations, no President will ever be safe from impeachment again[.]"³ I, for one, have a little more confidence that our future leaders will not commit felonies, but if a future President commits the same crimes as President Clinton, I hope that Presi-

dent will face the same constitutional response.

In fact, one familiar lawyer recognized that there is "no question that an admission of making false statements to government officials and interfering with the FBI is an impeachable offense."⁴ That lawyer was William Clinton, speaking in 1974.

PUBLIC OR PRIVATE CONDUCT?

The President's defenders have argued that his errors were "private acts" which are irrelevant to the constitutional standards of public behavior. But this was not about adultery. These charges would be just as valid even if he were never married. Let's also consider a few other facts.

The President utilized his secretary to conceal evidence;

The President went out of his way to lie to his most senior aides, knowing they would repeat those lies to the grand jury;

The President supervised a massive and coordinated effort to have his staff, on government time, repeatedly lie to the public on his behalf;

The President asserted one of his most precious powers, that of executive privilege, to keep government employees from cooperating with a federal grand jury; and

There is evidence that official White House personnel attempted to smear Ms. Lewinsky and other witnesses to bolster his bogus defense.

If this conduct is so private, why has the President dragged so many public servants into his web of deceit and lies?

If the Senate were going to pass a censure resolution, perhaps it should include language rebuking his private behavior which even his staunchest defenders have recognized as reprehensible, reckless, and indefensible. However, we are sitting not as a court of morality, but as a court of impeachment which must decide whether the rule of law, as Manager HYDE so eloquently explained, is a value so worthy of protection that it requires removal of a twice-elected President.

ATTACK ON THE SYSTEM OF GOVERNMENT

Even more importantly, the President's conduct was not simply a personal matter, but rather an attack on our system of government. Our system of justice, both civil and criminal, would collapse if lying under oath was tolerated, tampering with witness' testimony was permitted or hiding of evidence was customary. Think of all of the plaintiffs, defendants, and witnesses who are involved in difficult or embarrassing situations involving bad investments, physical altercations, substance abuse, or adultery. How can we expect all of them to tell the truth, produce the evidence, and abide by society's legal standards about these matters when our President refused to do so?

Recognizing that the President still may face the criminal justice system, I believe it is entirely appropriate for the Senate to consider how our judicial system reacts to perjury. Remember

the 1998 quote from a federal judge which Manager BUYER recounted:

[Congress does not] want people lying to grand juries. They particularly don't want people lying to grand juries about criminal offenses. They particularly don't want people lying to grand juries about criminal offenses that are being investigated. They don't like that. And Congress has said we as a people are going to tell you if you do that, you're going to jail and you're going to jail for a long time. And if you don't get the message, we'll send you to jail again. Maybe others will. But we're not going to have people coming to grand juries and telling lies because of their children or their mothers or fathers or themselves. It's just not acceptable. The system can't work that way.⁶

A DOUBLE STANDARD FOR THE COMMANDER-IN-CHIEF?

Of all of the powers trusted to the President, possibly the most important is his role as Commander-in-Chief. His ability to lead the military in times of war, and during every day of preparation, training, and planning which precedes violent conflict, depends in large part in the trust and confidence he can inspire in the approximately 1.2 million men and women he commands. These men and women are subject to the Uniform Code of Military Justice: the President should be grateful he is not, for he likely would be facing court martial for his actions. At a minimum, he likely would be found guilty of the following offenses:

False official statements—Article 107;

Perjury—Article 131;

Conduct unbecoming an officer and gentleman—Article 133;

False swearing—Article 134;

Obstruction of justice—Article 134; and

Subornation of perjury—Article 134.

As Manager BUYER reminded us:

In every warship, every squadbay, and every headquarters building throughout the U.S. military, those of you who have traveled to military bases have seen the picture of the Commander in Chief that hangs in the apex of the pyramid that is the military chain of command. You should also know that all over the world military personnel look at the current picture and know that, if accused of the same offenses as their Commander in Chief, they would no longer be deserving of the privilege of serving in the military.⁷

We all remember the publicity surrounding the case of Kelly Flynn, forced to resign from the Air Force for adultery and false statements. But there are many others, including the pending case of Air Force captain Joseph Belli. Captain Belli is currently awaiting trial, and faces up to 27 years in military prison, for having an adulterous affair with a female airman on the base at Diego Garcia, then asking both his wife and his lover to lie about it. Although Captain Belli asked to resign and although his wife asked that the charges, which she first raised, be dropped, the prosecution goes on. What do you think Captain Belli would think of an acquittal of President Clinton?

DOUBLE STANDARD COMPARED TO JUDGES?

One of the bedrock principles of our system of justice is *stare decisis*, that

¹Footnotes at end of speech.

is following precedent. One question before us is whether making false statements under oath merits conviction and removal. The Senate has clear and recent precedent that answers this exact question. In 1986, Judge Harry Claiborne was convicted by votes of 90-7 and 89-8 for making false statements under oath on his tax returns. In 1989, Judge Walter Nixon was convicted by votes of 89-8 and 78-19 for making false statements to a federal grand jury. Also in 1989, Judge ALCEE HASTINGS was convicted by a votes of 68-27, 69-26, 67-28, 67-28, 69-26, 68-27, and 70-25 for making false statements under oath. The Senate has spoken decisively, repeatedly, and recently on this question: making false statements under oath is an offense worthy of impeachment and conviction.

As Manager HYDE noted, "This country can survive with a few bad judges, a few corrupt judges; we can make it; but a corrupt President, survival is a little tougher there."⁸ Legal commentator Stuart Taylor phrased it well: "While removing him would be uniquely traumatic, his alleged crimes . . . are uniquely visible, and thus uniquely menacing to the rule of law, to trust in government, and to the national culture."⁹

Moreover, we know what the Founders thought of perjury: the very first Congress enacted "An Act for the Punishment of Certain Crimes Against the United States" which made perjury a federal crime. Rather than creating a lower standard of conduct for the President, I believe the Senate should hold the President to the same or even a higher standard.

And we should ask the President, if he discovered that a person he was considering for a judicial nomination had committed the acts which have been proven in this case, would he still nominate that individual? I think we know the answer.

DISCUSSION OF THE ARTICLES

ARTICLE I—PERJURY BEFORE THE GRAND JURY

I believe the evidence shows a pattern of perjury which deserves conviction. In describing how the lies were not few in number or in importance, Manager MCCOLLUM captured the essence of the President's grand jury testimony: "This is about a pattern. This is about a lot of lies."¹⁰

In the weeks leading up to the President's grand jury testimony, Americans of all political persuasions offered unsolicited advice to the President to "come clean" before the grand jury, to admit any embarrassing conduct, and, above all, to tell the truth. They advised him that testimony which was "evasive, incomplete, misleading—even maddening," as the President's own lawyer described his deposition testimony, would not suffice before the grand jury.¹¹ Rather than heed this advice, however, the President decided to ignore his oath "to the tell the truth, the whole truth, and nothing but the truth," and instead, to paraphrase Manager ROGAN, decided to tell the

evasive truth, the incomplete truth, and nothing but the misleading truth.¹²

It is true, as counsel for the President argue, that the President did make many admissions during his appearance which no doubt were painful: that he had had an affair with a subordinate employee not even half his age, and that he had misled the American people, his family, and aides. Sprinkled amidst these admissions, however, were numerous lies and half-truths. These statements were obviously under oath, they were material to the grand jury's investigation, and they were intentional. Thus, they constitute perjury. The claim by the President's counsel that "he told the truth, the whole truth, and nothing but the truth for 4 long hours" is complete nonsense.¹³

Simply put, the President decided that his personal and political needs were more important than the rights of the grand jury to receive truthful testimony or his obligation to comply with federal law. For these statements, which deceived a legitimately constituted federal grand jury investigating criminal conduct not only of the President, but of others, the President deserves to be convicted on Article I.

For instance, I believe that the President lied when he claimed his goal during the deposition "was to be truthful" and again when he said "I was determined to work through the minefield of this deposition without violating the law, and I believe I did."¹⁴ No person who has read or seen the President's deposition can really believe that he was trying to be truthful.

For example, when asked during the deposition, "at any time have you and Monica Lewinsky ever been alone together in any room in the White House?", the President replied ". . . it seems to me that she was on duty on a couple of occasions working for the legislative affairs office and brought me some things to sign, something on the weekend."¹⁵ No reasonable person could believe that his goal in responding this question was to be truthful. And the President, a lawyer, a former law professor, and a former attorney general of his state, could not have believed that he had not violated the law when he answered questions in this manner.

I need to address briefly the defense argument that the Senate is forbidden from considering the Jones deposition because the specific article alleging perjury was defeated on the House floor—remember Ms. Seligman's claim that the deposition "answers are not before you and the managers' sleight of hand cannot now put them back into article I."¹⁶

On December 11, 1998, when the House Judiciary Committee considered the articles of impeachment against the President, subsection 2 of Article I read exactly as it does today alleging perjury in the grand jury about the "prior perjurious, false and misleading testi-

mony he gave in a Federal civil rights action brought against him." No member of the Committee offered a motion to strike or amend this provision. The subarticle remained unchanged when it was debated on the House floor. All 435 Members of the House were on notice that this section of Article I clearly charged the President with lying before the grand jury about his Jones deposition testimony. The fact that a separate article of impeachment dealing solely with the deposition was defeated on the House floor has absolutely no impact on the contents of Article I.

Moving to the remainder of Article I, I believe that the evidence tends to show that the President was lying when he stated to the grand jury that "I was not paying a great deal of attention to this exchange" when his attorney, Robert Bennett, argued for a lengthy period of time that the President should not have to answer questions about Monica Lewinsky because of her affidavit, known by the President to be false.¹⁷ The videotape of the deposition clearly shows President Clinton staring directly at his attorney when these misrepresentations were made, and then closely following the back-and-forth between Bennett, Judge Wright, and Jones' counsel.

I also believe that the evidence demonstrates clearly that the President perjured himself during his testimony concerning his relationship with Ms. Lewinsky.

Part Four of Article I concerns the President's grand jury testimony concerning the various allegations of obstruction of justice contained in Article II. I discuss my views on the substantive obstruction counts below, but I also conclude that the President committed multiple acts of perjury in discussing and denying his role in these events. For those who argue that the allegations of perjury only deal with sex, I invite you to read the President's answers to the questions about the alleged obstruction: some defy common sense, most conflict with more credible accounts provided by other witnesses, and many are perjurious, false, and misleading.

ARTICLE II

The evidence concerning certain of the allegations of obstruction is strong, and would meet the legal requirements of Title 18 were this a criminal trial. While the White House defense would urge us to consider the President's "record on civil rights, on women's rights[.]"¹⁸ I would urge all Senators to remember that it is easy to talk a good game, but when another American citizen sought to exercise her rights, the President played a different one. To use a phrase, the President wanted to win too badly.

For instance, the evidence that the President tampered with a potential witness, Betty Currie, is convincing. As Manager MCCOLLUM pointed out, Ms. Currie's testimony in this matter is undisputed.¹⁹ Just hours after he fed the Jones' lawyers numerous lies, the President called Currie and demanded

that she come to Oval Office on a Sunday. He then accosted her with a list of falsehoods, such as "You were always there when she was there, right?"²⁰ The President clearly knew Currie was a potential witness in the Jones case, not only because he had mentioned her repeatedly during the deposition, but also because he knew that the Jones lawyers obviously knew there was some relationship between he and Lewinsky and that they would continue to follow that lead.

Even worse, according to Currie's testimony and evidence in the record, when it was known that the Office of Independent Counsel was investigating, the President saw Currie again, and repeated his coaching. By this time, Currie was clearly a witness to a grand jury investigating federal crimes. Both of these conversations constituted witness tampering under Title 18 and warrant conviction.

Moreover, in attempting to explain away his crime during his appearance before the grand jury, the President clearly perjured himself. His answers, which included the hilarious claims that he was trying to "refresh my memory" and "I was trying to get the facts down. I was trying to understand what the facts were" are perjury.²¹ The fact that Ms. Currie was willing to recount these encounters to the grand jury does not diminish in the slightest the fact that the President illegally tried to coach her.

But this episode of obstruction was only part of a continuing pattern. Clear circumstantial evidence proves that the President participated in a scheme to hide evidence under subpoena by Paula Jones. The evidence shows that Lewinsky suggested that she make sure that the many gifts the President had given her were not at her residence, specifically suggesting to the President that Betty Currie could hide them from the Jones attorneys. Lo and behold, hours later, Currie, having no idea that Lewinsky was under subpoena to turn over gifts, called Lewinsky after having seen the President at the White House and said something to the effect of "I know you have something for me or the President said you have something for me."²² The two arranged to meet, Lewinsky sealed the gifts in a taped box, handed the box over to Currie, who hid it under her bed.

There are two explanations for how this obstruction happened. One, Betty Currie suddenly had a vision that she should call Lewinsky to see if she needed help in her plans to obstruct justice. Or two, the President communicated, explicitly or obliquely, that Currie should call Lewinsky to execute her scheme. Deciding which of these scenarios is more plausible is not difficult. Moreover, the idea, advanced by the President's defense, that he did not care if Lewinsky produced to the Jones attorneys all 24 gifts he had given her, is ridiculous. Can anybody really think that the Jones attorneys would have

taken a look at the pile of gifts and said "well, there are only 24 gifts—I guess there was nothing going on there."

I also believe Ms. Lewinsky's testimony that the President suggested to her that she could supply the Jones attorneys their long-standing "cover stories"—that she was delivering papers or visiting Currie when in fact she was coming to visit the President. The President's counsel have done their best to confuse this issue by linking it with the events surrounding Ms. Lewinsky's affidavit. But her deposition testimony is clear that the President reminded her during a 2 A.M. phone call, after she was on the Jones witness list, that if she ended up testifying—that is, if the affidavit was unsuccessful—that she should use the cover stories they had developed:

Q: . . . did you talk about cover story that night (December 17, 1997)?

A: Yes, sir.

Q: And what was said?

A: Uh, I believe that, uh, the President said something—you can always say you were coming to see Betty (Currie) or bringing me papers.

Q: . . . You are sure he said that that night?

A: Yes.²³

As the Managers pointed out, this scheme, which was "not illegal in its inception—simply trying to keep the relationship private—did in fact deteriorate into illegality once it left the realm of private life and entered that of public obstruction."²⁴

And on the issue of making false statements to top aides, knowing these lies would be repeated to the grand jury, the President is guilty both of obstruction and perjury. The fact that the President was also lying to the American people is irrelevant to this charge. The facts are that the President was denying this workplace relationship, that he knew the Independent Counsel was attempting to prove it was true, and he knew his top aides working in his close proximity would be called before the grand jury to find out whether they had seen or heard of the relationship. The false information he passed to them, including much more than just false denials, clearly obstructed the grand jury's investigation.

I also believe the evidence concerning unusual job assistance provided to Monica Lewinsky through the President's close friend, Vernon Jordan, and the President's blatant failure to interrupt his attorney's unknowing attempt to utilize Ms. Lewinsky's false affidavit bolsters the Managers' charges of obstruction.

The Senate has never faced the question whether obstruction of justice is an offense worthy of conviction and removal from office. Luckily, this is not a difficult question. No less than perjury, obstruction of justice and witness tampering interfere with the gathering of truthful evidence and testimony that is the lifeblood of our civil and criminal courts. Our Federal Sentencing Guidelines recognize the detrimental effects of these acts, providing

for tougher sentences for obstruction than for general acts of bribery.

In conclusion, consider whether instead of lying and obstructing in the Jones case, the President had paid bribes to Lewinsky and Judge Wright. Would the President's defenders still claim that this was private conduct? No, they could not, and the effect of the perjury and obstruction is the same.

CONCLUSION

Throughout these proceedings, the President's counsel and defenders have cited his popularity as a new type of legal defense to the charges: Senator Bumpers said "the people are saying 'Please don't protect us from this man.'"²⁵ In fact, I believe his popularity, largely a result of economic factors not of his making, means the Senate should give even closer scrutiny to the charges. I would argue, as did Manager CANADY, that a President able to get away with crimes because of his popularity is the greatest danger to our system of government, exactly the type of danger that the Framers envisioned when trusting the Senate with the power of removal.²⁶ Remember how Alexander Hamilton spoke of the Senate's role:

Where else, than in the Senate could have been found a tribunal sufficiently dignified, or sufficiently independent? What other body would be likely to feel confidence enough in its own situation, to preserve unawed and uninfluenced the necessary impartiality between an individual accused, and the representatives of the people, his accusers?²⁷

As Manager GRAHAM pointed out, a Senator voting to convict the President for his actions is placing a "burden on every future occupant" of the office of the President to avoid this type of conduct.²⁸ Asking our Presidents to obey the law and to respect the judicial process are burdens that I am willing to place on future Presidents.

President Clinton is guilty of perjury. He is guilty of obstruction of justice. He must be removed from office.

The House and its Managers admirably fulfilled their Constitutional and moral responsibilities. I can say confidently that Senate Republicans kept their promises to conduct a fair and expeditious trial and to protect the Constitution. The just cause of impeachment is nearly over.

Congress will then be able to focus on its full-time job: securing a better quality of life for all Americans. During the coming months, Congress will move forward with an aggressive agenda to provide an across-the-board tax cut, improve educational opportunities for our children, strengthen our national security, and ensure a sound Social Security and retirement system that provides Americans with the best possible return on their investments.

I am anxious to roll up my sleeves, get to work, and make the most of the opportunities ahead in the 106th Congress.

Footnotes

¹ 145 Cong. Rec. S495 (January 19, 1999) (statement of counsel Ruff).

²145 Cong. Rec. S963 (January 20, 1999) (statement of Manager Canady).

³145 Cong. Rec. S823 (January 20, 1999) (statement of counsel Craig).

⁴Arkansas Democrat, August 6, 1974.

⁵See Cong. Rec. S299 (January 16, 1999) (statement of Manager Hyde).

⁶145 Cong. Rec. S283 (January 16, 1999) (statement of Manager Buyer).

⁷145 Cong. Rec. S286 (January 16, 1999) (statement of Manager Buyer).

⁸145 Cong. Rec. S887 (January 22, 1999) (statement of Manager Hyde).

⁹Legal Times, January 18, 1999, at 26.

¹⁰145 Cong. Rec. S266 (January 15, 1999) (statement of Manager McCollum).

¹¹House Serial 68, at 11.

¹²See 145 Cong. Rec. S879 (January 22, 1999) (statement of Manager Rogan).

¹³145 Cong. Rec. S812 (January 20, 1999) (statement of counsel Craig).

¹⁴House Doc. 105-311, at 532.

¹⁵Clinton Jones deposition at 58.

¹⁶145 Cong. Rec. S969 (January 25, 1999) (statement of counsel Seligman).

¹⁷House Doc. 105-311, at 511.

¹⁸145 Cong. Rec. S830 (January 20, 1999) (statement of counsel Mills).

¹⁹See 145 Cong. Rec. S994 (January 26, 1999) (statement of Manager McCollum).

²⁰House Doc. 105-316, at 559.

²¹House Doc. 105-310 at 507-508, 583.

²²145 Cong. Doc. S1225 (February 4, 1999) (deposition of Monica Lewinsky).

²³145 Cong. Rec. S1219 (February 4, 1999) (deposition of Monica Lewinsky).

²⁴145 Cong. Rec. S275 (January 15, 1999) (statement of Manager Barr).

²⁵145 Cong. Rec. S846 (January 21, 1999) (statement of counsel Bumpers).

²⁶See 145 Cong. Rec. S295 (January 16, 1999) (statement of Manager Canady).

²⁷145 Cong. Rec. S296 (January 16, 1999) (statement of Manager Canady) (quoting *The Federalist* No. 65).

²⁸145 Cong. Rec. S289 (January 16, 1999) (statement of Manager Graham).

Ms. LANDRIEU. Mr. Chief Justice, as I begin, as so many of my colleagues have, I would like to thank our leaders for their tremendous patience—TOM, for your steady hand and, TRENT, for your good sense of humor.

Before I get into the core of my remarks, I would like to say that this ordeal has been, indeed, trying for all of us, but I believe it has strengthened us individually and as a body. We have come to know each other far better. We have gained a deeper appreciation of our individual strengths and gifts. And I am more than satisfied, particularly in listening to my colleague, OLYMPIA SNOWE, that this country is in good hands with the men and women here in this chamber.

Besides gaining a deeper appreciation for each other and for the Senate itself, we have also shared a great history lesson. For some of us, it has been our first in-depth study of these portions of our history; for others, it has been a timely refresher course; and to one among us, Senator ROBERT C. BYRD, I trust a rewarding experience as your words and writings on this important constitutional question have brought calm and clarity to our deliberations.

So many excellent points have been made in these last days. And I don't want you all to repeat this outside—and I know you can't—because people would say I am crazy, but I have enjoyed every single moment of these last three days. There has been a lot of talk about our Constitution and the Framers intent regarding the impeachment clause. Many have been mentioned. I will only venture to offer one

that has to my knowledge not been mentioned yet because it strikes me as particularly timely, important and ironic. That is the argument of the anti-Federalist faction who fought vigorously for an impeachment provision, because they believed according to Madison, "... that the limitations of the period of service"—and they were speaking about an Executive—"was not sufficient security."

They believed that in creating a federal government it would quickly get out of control and out of step with the sentiments of the American people. Their fears were palpable. According to some scholars, as outlined in Senator BIDEN's brief, this charge of possible "corruption, intrigue, tyranny and arrogance" between elections by the chief executive was so strong that it was almost fatal to the ratification of the Constitution by the states.

It is, indeed, ironic that we are in the process of conducting an impeachment against a president that seems by all impartial and objective analysis—despite his personal failings—to be in step with the American people, in step with their wishes and their hopes for this country, in step with their ideas for a domestic and an international agenda.

The latest independent analysis by the New York Times and CNN published today shows that 70% of the American people—a clear majority—believe that the President should not be removed from office. I know that people have rejected talk of analysis and polling. When I was writing this, I felt some hesitation of even bringing it up because I come from a family that wears as a badge of honor the ability to stand alone against great odds. In the 1950's, 60's, and 70's, as one of nine siblings born to parents who were civil rights leaders, it is the only way I knew. I grew up listening to my father tell stories about his lone vote against the Jim Crow laws in the Louisiana Legislature. I grew up thinking that was the right thing to do. I believe at this time, it still is.

But as the Bible would infer, there is a time to lead and there is a time to listen. For those who are still struggling at this last hour with your decision, regardless of how strongly you might feel about what the President did, I respectfully suggest that you can find comfort in the wisdom of the people.

Should we make all of our decisions based on polls and public opinion surveys? Absolutely not. However, this particular situation is different. Let me point out two important distinctions.

One, this is not a regular issue. The people know a lot about this case. They have a clear high-tech, 20th century view of the currents and events shaping it. All of them: the good, the bad, and the ugly. It has been the most publicized and analyzed political/legal case of this century and perhaps all of his-

Two, this is the greatest and most admired democracy on the face of the earth. As PATRICK MOYNIHAN so eloquently pointed out: One so rare and precious, it is truly a treasure. In such a democracy, the people's voices should count.

Thomas Jefferson said, "Democracy is cumbersome, slow and inefficient." Over the last twelve months, we can certainly attest to that. "But," he said, "in due time, the voice of the people will be heard and their latent wisdom will prevail."

As for me, I voted to dismiss both articles at the first appropriate opportunity. I did so after careful review of the facts, the evidence and a reading of the relevant parts of the Constitution and the other appropriate historical documentation. My colleague, OLYMPIA SNOWE, and others have eloquently gone through many of the details of the case, and I will not take time to repeat them now.

I concluded that the charges of perjury and obstruction of justice, while serious indeed, overlaid an immoral but not a criminal act against the state, one that is essentially private and not a public act. Therefore, in my judgment the charges did not rise to the level of high crimes and misdemeanors, a high constitutional bar which has served us exceedingly well over the last 223 years.

So today for those same reasons, and in respect for the people of this democracy, I will vote to acquit the President on both charges.

As I said in an earlier statement, which at this time I would like to add to this record, this vote should not be interpreted as approval of the President's actions which were reckless, irresponsible and showed a serious lack of judgment. A sexual dalliance with a White House intern and the subsequent breach of the public trust will cast a deep shadow over his other notable accomplishments and will forever tarnish his presidential legacy.

I cast this vote and find my comfort in a clear conscience, in the Constitution, and in the will of the people.

In closing, let me make one last appeal. Let us put forth a strong censure resolution. One that doesn't attempt to provide cover for either political party or to make us feel better or worse about our votes. We can all defend our votes, and certainly we will be called on to do so. Let us, rather, craft a resolution which could receive a majority support of both parties. The wording should condemn the President's actions in the strongest terms and call for a national reconciliation.

UPHOLDING THE CONSTITUTION

Several weeks ago the Senate took up the somber Constitutional task of sitting in judgment of a president in an impeachment trial. Throughout the trial, I have limited public comment to underscore the impartiality I have brought to this process. Both sides have now spoken and I have reviewed all of the evidence as required by the

Constitution. My decision has been made: the actions of President Clinton, while wrong, indefensible and reckless, do not meet the Constitutional standards for removal from office. Therefore I have voted to dismiss the Articles of Impeachment against the President.

From the start, I have tried to focus on what the Framers of the Constitution had in mind when they carefully crafted the Impeachment Clause. It is important to remember that for more than 100 years the colonies suffered under the thumb of the tyrannical kings of the English monarchy. A principle goal of the Framers was to have a mechanism to protect the populace from corrupt and oppressive leaders.

In the Federalist Papers, Alexander Hamilton and James Madison argued that impeachment be used only for "distinctly political offenses against the state." Our Founders were trying to guard against tyranny and oppression, and not personal actions no matter how reprehensible. More than 700 noted legal and historical scholars, both conservative and liberal, agree with this constitutional interpretation of the impeachment clause.

The Founders were also rightly concerned that impeachment might be employed as a partisan tool to undermine, even destroy, high ranking government officials—especially the President. They worried a "powerful partisan majority" might misuse it for public gain. The House impeachment vote, which essentially fell along party lines, is troubling. Such partisanship was absent during the Watergate proceedings. At that time Republicans and Democrats on the House Judiciary Committee joined together to vote for impeachment because the evidence showed crimes were committed against the government.

I also voted against calling witnesses because it is clear that a complete and fair trial can and should be conducted on this voluminous and well-publicized record. Our nation deserves to be spared this protracted spectacle, particularly at a time when public disillusionment of government is at an all-time high and issues like Social Security, education and international crises demand our immediate attention.

Critics of this position will somehow believe that President Clinton has avoided punishment. On that issue, let me make two points. First, the power of impeachment was never meant to punish the president, but to protect the nation. Second, the president has already suffered by his reckless behavior and, unfortunately, so has his family. In addition, criminal charges could be brought against him once he leaves office, and he is still subject to civil charges. Worst of all, his inappropriate and reckless behavior and the subsequent breach of public trust will cast a permanent shadow over his other notable accomplishments and will forever tarnish his presidential legacy.

In 1868 Senator James G. Blaine voted to convict and remove Andrew

Johnson, the only other president to be impeached. Twenty years later he said he had made a "bad mistake" and recanted. Upon further reflection he realized that the charges did not warrant the "chaos and confusion" of removing President Johnson from office. Likewise, these charges do not warrant the "chaos and confusion" that could occur should our last presidential election be overturned.

At the conclusion of this trial, I plan to cosponsor a strong censure resolution of President Clinton concluding that his conduct in this matter has brought shame and dishonor to himself and the Office of the President. In my opinion, it would bring a sensible end to this regrettable chapter in American political history. Finally, the ultimate political judgments will be made by the people in future elections. And the lasting judgment will be made by the only One who can.

Mr. SMITH of New Hampshire. Mr. Chief Justice, thank you very much. I would certainly give more than a penny for your thoughts on this matter. But I am afraid we will probably never know.

Mr. Chief Justice, I have been proud to be a U.S. Senator ever since that day over 8 years ago when I took the oath of office and my colleague, Senator BYRD, told me that I was the 1,794th person to serve in the U.S. Senate.

During my tenure in the Senate, I have learned to respect my colleagues even when I strongly disagree with them on the issues of the day. I have challenged colleagues on issues and maybe at times even criticized their votes. But I have never challenged a colleague's motives and I never will. I respect each and every one of you and the high office you hold.

I consider it a great honor to serve in this body, and serve with some giants here—Senator HELMS, Senator THURMOND, Senator BYRD, to name a few.

I remember when I came to the floor of the Senate and signed that book as No. 1,794. Senator BYRD reminded me of the significance of that. And I have never forgotten it.

I also sit at the desk of Daniel Webster. It is a constant reminder that I am just a temporary steward occupying this seat in the U.S. Senate. It is also a reminder that we will move on. But the Constitution will not move on. The Constitution will endure forever. Our role here in this proceeding is to preserve the Constitution and the Presidency. Yes—even if it means we have to remove the President.

Mr. Chief Justice, when the rollcall is called tomorrow, I will be voting "guilty" on both of the articles that are now before the Senate. It is clear that the Senate will not be finding President Clinton guilty on either article. But I just want to say regarding censure that my vote is my censure. I think anyone who votes to find him guilty does not need to be concerned about censure.

As I contemplate my vote, I am reminded of a prayer offered in 1947 by a former Chaplain of the Senate, Rev. Peter Marshall. Reverend Marshall prayed: "Our Father in Heaven . . . help us to see that it is better to fail in the cause that will ultimately succeed than to succeed in a cause that will ultimately fail."

I have faith that the cause in which I believe will ultimately prevail, because I believe that history will judge that President Clinton is, in fact, guilty of high crimes and misdemeanors that warrant his removal from office. I know others respectfully disagree. And believe me, I respect that disagreement.

Many of my colleagues have spoken on the instability a guilty verdict would cause for the Nation. We should never remove a President unless there is clear and present danger to the Nation, they say. With respect, colleagues, I submit to you that the double standard that we have set for our leader will ignite a cynicism directed against all of us. A cynicism is a clear and present danger to society.

With a not guilty verdict, you will tell the American people that perjury and obstruction of justice for the President are acceptable; that those who put their lives on the line for our Nation every day in our Armed Forces have a higher standard than the Commander in Chief; and that for everyone else in America who lose their jobs because of perjury and obstruction, that is not acceptable.

We reap what we sow. In my view, respectfully, history will judge us harshly for this. And I say that in great humbleness. It is my view. A not guilty verdict is a short-term victory for the President. It is a long-term defeat for truth, for honor, for integrity, for the Presidency, and, in my view, for the Constitution.

As Peter Marshall intimated in his prayer, with a not guilty verdict we have succeeded in a cause which I believe will ultimately fail.

My colleagues, we are all elected officials. And I want to comment about this partisanship. I say it in the spirit of bipartisanship. We have all been through the same ordeal together here. The nasty fundraising, the ad wars, dirty campaign tactics, thousands of miles of travel, neglecting our families, hours and hours away from home, much to the detriment of our own health and financial well-being. We do it all the time. And for anyone inside or outside this institution to suggest that my vote, or your vote, or anyone's vote in here is based on partisanship not only makes me sick, it makes me bristle with anger.

What are my colleagues really saying when they invoke the word "partisanship"? Do you really believe that the impeachment of the President of the United States by a majority of the Members of the House of Representatives, the body that is elected every 2 years, gives closure to the people, and

the body elected by the same voters who elect one-third of us every 2 years would impeach the President of the United States because he is a Democrat? Even to imply that is unworthy, it is arrogant, and it is below the dignity of this very seat that you now hold. Have you forgotten the "war" that James Carville declared on Ken Starr a year or so ago, and on the Republicans, to protect the innocent Bill Clinton?

Was that partisan? Was the President totally innocent? Partisanship has no place in this Senate, especially when it sits as a Court of Impeachment. We are here to do impartial justice, to be unbiased triers of fact. Yet, we have allowed that runaway partisan train of White House apologists, I might say, to rumble into the Senate with no brakes.

One of my colleagues mentioned the courage of Republicans who voted against impeachment in the House. How about the Democrats who voted to impeach? Are they, by implication, cowards?

Alexander Hamilton would be appalled at the notion of partisanship in an impeachment trial. Indeed, writing in the *Federalist Papers*, Hamilton said that the impeachment of the President "will seldom fail to agitate the passion of the whole community, and to divide it into parties more or less friendly to the accused."

"There will always be the greatest danger," Hamilton warned, "that the decision will be regulated more by the comparative strength of the parties, than by the real demonstrations of innocence or guilt."

Mr. Chief Justice, there was a hero of the Revolutionary War era, Dr. Joseph Warren. He was a doctor. He didn't have to serve; he was 34 years old. His colleagues begged him not to go. But he picked up arms at Bunker Hill at 34 years old and he said, "Our country is in danger. On you depend the fortunes of America. You are to decide the important questions upon which rest the happiness and the liberty of millions yet unborn. Act worthy of yourselves." He was killed at the Battle of Bunker Hill.

We don't act worthy of ourselves when we let partisanship enter into this trial, or even accuse one another of it. Why is it, when Democrats march in lockstep on a vote, that we Republicans are the only ones being accused of partisanship?

Why are the House Republicans partisan because they vote out the articles, yet the Democrats who vote to block them are not partisan?

I have served with HENRY HYDE in the U.S. House of Representatives, and so have many of you. There is not even a remote chance—and every single one of you knows it—not even a remote chance that HENRY HYDE would bring articles of impeachment against the President of the United States of any party if he didn't believe they were justified.

Honorable men and women can disagree on these articles, but leave your

politics at the door. Act worthy of yourselves.

If the articles were so outrageous, so political, so partisan, so vindictive, and it is nothing more than a private sexual matter, then why do those of you who say those things want to censure this President using such terms to describe his actions as "shameful," "disgraceful," "reprehensible," "false" and "misleading," and so forth?

Before I leave the matter of partisanship, let me say a few words about the case of our former colleague, Senator Packwood. My colleagues know I was a member of the Ethics Committee, and I supported the expulsion of Senator Packwood. I lost a colleague, and I lost a friend over that.

That case, too, was "about sex." My colleagues and I didn't shrink from doing our duty in the Packwood case because this outrageous behavior was about sex.

In addition, those organizations advocating that the Senate take strong action against Senator Packwood were, by and large, liberal feminist groups, which I disagree with on nearly every issue.

That, however, did not matter. Instead of being partisan or being deterred because the case was about sex, those of us on the Ethics Committee painstakingly investigated that case in all of its sordid and unpleasant detail. We considered the shameful behavior in which Packwood engaged. We considered how his behavior reflected on his fitness to serve. We considered his obstruction of the investigation with respect to his diaries.

And in the end, the committee, Republicans and Democrats alike, voted to recommend to the full Senate that he be expelled. In doing our duty as we saw fit, we were not deterred by the argument that we were "overturning an election," nor were the Republican members of the Ethics Committee—at the time, Senators MCCONNELL, CRAIG and myself—deterred by the fact that Senator Packwood was a member of our own party, nor were we deterred because liberal feminist groups were aggressively supporting many of the women accusers of Senator Packwood. The heart of the issue is not who Paula Jones' lawyers are, my colleagues, but, rather, did Bill Clinton expose himself in the presence of Paula Jones against her wishes? That is at best sexual misconduct, and at worst it is sexual harassment. Right wing groups did not find Paula Jones. Bill Clinton did. He says he didn't do it. Do you really believe him? The women accusers of Senator Packwood received justice in spite of those who promoted their cause. Paula Jones deserves the same treatment. The Supreme Court agreed 9 to zero. It is outrageous to say, as some have on this floor, that it is acceptable to expel Senator Packwood and acquit the President. That kind of debate should not take place on the floor of the Senate. How can you say that Senator Packwood is equal under the law, and yet the President is above the law?

Today, I ask my colleagues in the Senate to do in the impeachment case of President Clinton what we did in the ethics case of Senator Packwood. Put aside your political affiliation. Put aside your friendship or your personal disdain for President Clinton. Put all of that aside and do the right thing.

The House managers have established, I believe, beyond a reasonable doubt that President Clinton perjured himself and obstructed justice. As such, I don't believe we have any option other than to remove him from office and replace him with the Vice President—a fine, decent man, as many of his predecessors who have assumed the office of the Presidency during difficult times, and the Nation has persevered.

As I have listened to my colleagues in these final deliberations, I have heard time and again that the House managers did not prove their obstruction of justice charge because of conflicts in testimony. We heard about all these conflicts—conflicts in testimony about the hiding of the gifts, conflicts in testimony about the job search, conflicts in testimony about the President's coaching of Betty Currie.

Well, let me ask you, colleagues, if you believed that these conflicts needed to be resolved, then why didn't you join some of us who signed a letter to call for the President of the United States to come here to the Senate and tell the truth? What were you afraid of?

We could have called President Clinton here to a closed session of the Senate. It need not have been a media spectacle. It can and should have been a closed session—just the Senate and the President.

Time and again, I have heard my colleagues say that there should be a higher standard for removing a President of the United States than for removing a Federal judge or expelling a Senator Packwood. If there is such a higher standard for the law, then why not insist on a higher standard for the man?

One of my colleagues mentioned the Iran-contra matter. At an earlier time, not too many years ago, when impeachment talk was in the air, President Ronald Reagan walked to the microphone, and he said, "I take full responsibility for my own actions and for those of my administration. As angry as I may be about activities undertaken without my knowledge, I am still accountable for those activities. As disappointed as I may be in some who served me, I'm still the one who must answer to the American people for this behavior. And as personally distasteful as I find secret bank accounts and diverted funds—well, well, as the Navy would say, this happened on my watch."

Oh, what a little honesty and candor can do for the soul of the Nation. Why didn't we call the President? Why didn't every Member of this Senate sign that letter? What would be wrong

with having him come, either in deposition or in person? I will always regret that we failed to do so. We will never know whether the President's own testimony here before us could have better enabled us to do our constitutional duty. We will never know. The President testified before the grand jury. He testified before the Paula Jones case. He should have testified at his own impeachment trial so we could get the truth, so those of you who want to know whether or not he obstructed justice or committed perjury could have heard from him, not his lawyers. It is a permanent black mark on this trial, and I believe historians will ask for a long, long time: Why didn't the President testify? It could have changed the outcome of the trial.

Speaking of constitutional duty, I am reminded of the President's oath. Article II, section 1, clause 7, of the Constitution provides that:

Before he enter on the Execution of his Office, he shall take the following Oath or Affirmation: "I do solemnly swear (or affirm) that I will faithfully execute the Office of the President of the United States, and will to the best of my Ability, preserve, protect and defend the Constitution of the United States."

The Constitution considers the oath so important that it requires the man or woman who is elected President to take it. So given the importance of an oath—it is so important that no one elected can serve unless they take it—how can we say that willful violation of that oath, being perjury and obstruction, doesn't rise to the level of impeachment?

President Clinton has discredited the oath that the chief law enforcement officer of the Nation must take. We have compounded that discredit by not holding him accountable.

Manager LINDSEY GRAHAM said that "we could leap boldly into the 21st century by ignoring the rule of law." Unfortunately, the Senate opted to crawl.

My colleagues, we all in politics know what a user is. With all due respect, Bill Clinton is a user. He used Monica Lewinsky; he used his friends; he used his Cabinet; he used the American people; and now he is using the Senate.

The President has never been held accountable. He wasn't held accountable for not telling the truth about the draft; he was not held accountable for not telling the truth about marijuana; he was not held accountable for lying about his relationship with Gennifer Flowers; he was not held accountable for his actions towards Paula Jones; he was not held accountable for lying about Monica Lewinsky. He will walk away from this trial with an acquittal, and yet again he will avoid accountability for his actions. He will avoid being held accountable for the actions that every American citizen, every teacher, every CEO, every military man and woman, would have lost his or her job over, and we let it happen. We did. With the greatest respect, that is not a profile in courage.

After the acquittal, I hope we will not be a party to the party. The champagne corks will pop; cigars will be lit; maybe even the bongo drums will be played. I implore you, colleagues, don't go to the party. There is nothing to celebrate. Act worthy of yourselves.

In 1880, when Dostoevsky, the great Russian author, wrote "The Brothers Karamazov," he could not even have dreamed that there would ever be a Bill Clinton, but here is what he says, and it goes right to the heart of this entire case:

The important thing is to stop lying to yourself. A man who lies to himself and believes his own lies becomes unable to recognize the truth, either in himself or anyone else, and he ends up losing respect for himself as well as for others.

When he has no respect for anyone, he can no longer love. And in order to divert himself, having no love in him, he yields to his impulses, indulges in the lowest form of pleasure, and behaves in the end like an animal in satisfying his vices. And it all comes from lying, lying to others and to yourself.

The rule of law and the President's constitutional oath must pass the test of truth. President Clinton, regrettably, failed that test.

Mr. Chief Justice, I am satisfied beyond a reasonable doubt that William Jefferson Clinton is guilty of perjury, is guilty of obstruction of justice, and must be removed from office. I have only to answer to my conscience, to the Constitution, and the judgment of history, and I stand ready for that judgment.

I yield back any time.

Mr. BINGAMAN. Mr. Chief Justice, colleagues, I will vote to acquit the President on the two articles of impeachment. I will vote "no" for two reasons. First, the House has failed to allege acts by this President which in the context of this case constitute high crimes and misdemeanors. And, second, the House managers allege that the President committed crimes, but they have failed to establish the elements of those crimes.

The illicit sexual affair which the President engaged in, and the President's efforts to conceal that affair, are permanent black marks on his Presidency. His actions were deplorable, indefensible, and immoral.

But however reprehensible these acts were, they are not impeachable offenses. They did not endanger the Government. They were not the "stuff" which the writers of the Constitution had in mind when they used the phrase "high crimes and misdemeanors."

I think we should act accordingly. Our duty, as I see it, is to look at the record, look at the arguments, judge our own authority as it has been given to us in the Constitution, and then vote either to remove the President or to acquit the President.

I want to spend just a minute on this issue of our own authority. As I hear some of the discussion, it seems to me we have lost sight of our own authority. Some have argued that if a universal president were to have engaged in

these acts, clearly the board of regents of the university would fire that president. Some have said if a chief executive officer of a corporation were to engage in a course of conduct like this, the board of directors of the corporation would fire the chief executive officer.

I was visiting the United Parcel Service facility in Albuquerque right before Christmas, and I was talking to various people there. One of the men said, "I hope you throw the President out of office because if I did what he has done my boss would sure fire me." That is the way a lot of us tend to think about this issue. And the discussion here this afternoon has been consistent with that. So I think it is worth focusing on what is wrong with that argument.

What is wrong with that argument is that we are not the President's boss. We did not hire the President. The American people hired the President, just like the American people hired each one of us. And we have very limited authority under the Constitution to step in and interfere with the decision of the American people in that regard. I do not believe that the Constitution intended that we would set ourselves up as the judge of the President's character, or to determine whether we believe this President is trustworthy enough to remain in office. That issue is not for us to decide. That was decided by the American people. They have not delegated that decision to us.

I am reminded of a story from New Mexico politics. We had a mayor in Albuquerque many years ago named Clyde Tingley. He was very proud of the city zoo, which he had built with city funds. He was showing the zoo to a high official in the Catholic Church one day. And the official at one point said, "Well, Mr. Mayor, this is an amazing project here. The people of Albuquerque ought to canonize you for this." The mayor shot back, "A bunch of them tried during the last election. But they didn't get away with it."

I think a bunch of people tried to throw this President out of the White House in the last election because of questions about his character, but they didn't get away with it. These are not new questions about this President. These are questions which have been raised and raised and raised about whether this President is trustworthy, whether this President has demonstrated the character necessary to serve as President. And we really did already have a vote. Every one of us has already voted on whether to remove this President from the White House. Each one of us voted on that issue in November of 1996. I would assume a majority of us in this Chamber voted to remove him from the White House. But the American people chose to keep him there. The American people judged him to be worthy of the job and chose him to be their President for another four years. And they did not authorize us to second guess that decision.

So we need to look at our own job here, and say to ourselves, "Are we here to pass judgment on the President's character, are we here to pass judgment on the President's trustworthiness, are we here to determine whether he is a proper example for young people, or instead are we here to decide whether he has committed high crimes and misdemeanors that would justify removing him from office?"

Senator JOE BIDEN put it very well by saying that this branch of government—the House and Senate—should be very reluctant to reach across and remove the head of another branch of government. That is an extraordinary act. It has never occurred in the history of this country. For good reason it has never occurred. It would be a major mistake for us to take that action at this time.

The framers of the Constitution did not intend Congress to remove a duly elected President on the basis of facts such as these, and they were right to deny the Senate that authority. The stability of the executive branch must not be put at risk by Congress, contrary to the "electoral will", absent a clear showing of "high crimes and misdemeanors" by the President. There is no such clear showing here. The proper remedy for this kind of improper conduct is in the voting booth, not here on the floor of the United States Senate.

In my view, the House misused the power of impeachment when it voted these articles of impeachment against the President. It would compound the misuse of power if the Senate were to vote to convict and remove. My vote will be to acquit.

Mr. BENNETT. Mr. Chief Justice, as I have sat through this trial, I have not spent much time on questions of reasonable doubt or where the preponderance of evidence lies. Whatever the importance of those concepts in a typical court, the constitutional implications of what we are considering are much more serious than the issues decided in a normal trial. I will not vote to remove a sitting President on the turning of a legal issue.

Accordingly, early in the trial I decided that I would not vote to convict under the First Article of Impeachment. It struck me as overly legalistic. I listened to the lawyers argue about the proper form of the article, and I heard about questions of materiality—not a term I use in everyday conversation—and I decided that while the case was there, it was shaky. In order to be sure I would render impartial justice, I asked myself if I would remove Ronald Reagan in a similar circumstance. When I realized I would not, I decided that I could not vote to remove Bill Clinton.

Once I had made that decision, I more or less tuned out further discussions on Article One, from either side, and concentrated on Article Two.

Here the issues seemed more disturbing. The Constitution guarantees that the most ordinary of citizens has

the right to her day in court, regardless of her hair or her nose or her choice of attorneys. The man she sues, even if he is the most powerful man in the country, does not have the right to lie while testifying under oath in her case, to deny her truthful discovery just because it would embarrass him. He does not have the right to encourage others who are beholden to him, either for their jobs or for favors he has done for them, to do the same, even by interference. He does not have the right to coach and mislead potential witnesses. He does not have the right to use the awesome power of the White House public relations apparatus to spread false and malicious rumors about people—calling them "stalkers," "trailer park trash" and "liars"—just because he thinks they might embarrass him if they tell the truth.

It has been said that it was understandable for President Clinton to do all these things because he was just trying to cover up a sexual affair, and, after all, everyone lies about sex. Well, not everyone. We have had other Presidents whose sexual improprieties have been made public at awkward times—Grover Cleveland, while a candidate for President, was exposed as having fathered a child out of wedlock. Asked by his panicked political allies what to do he said, "Tell the truth, of course," and won the election. Bill Clinton should take such notes.

What finally convinced me to vote for Article Two was the statement of my good friend, Dale Bumpers. I thought he was magnificent. He told us that the fundamental purpose of the Constitution was to "keep bullies from running over weak people."

I was struck by that. I wrote it down. Then I asked myself, "In this case, who is the bully, and who are the weak people?"

While publicly posing as a helpless victim of a relentless prosecutor, it was President Clinton and the people in his famous "war room" who were the bullies, using presidential powers and presidential lies to run over the rights of Paula Jones and, if necessary, Monica Lewinsky.

Any President who is willing to lie and smear and stonewall, whether under oath in a courtroom or before a TV camera, speaking confidentially to his aides or privately to his family—any President who is so ruthless, disdainful of the truth and callous of the rights of others that he is willing to do anything to "just win, then"; any President who readily uses the power of his office for his personal ends regardless of who is hurt—that President is a bully and, as such, a threat to the constitutional liberties of us all.

Dale Bumpers said that the Constitution was written to keep bullies from running over weak people. That's called justice. William Jefferson Clinton tried to obstruct that justice. And I decided to vote to remove him from office.

So there I was—ready to vote not guilty on Article One, guilty on Article

Two. I sat down and wrote a fancy speech outlining these conclusions, showed it to a few friends, notified my staff and sat back to let things play out.

As the trial proceeded, however, something was gnawing at me. The perjury charge kept creeping back into my mind. That something, as I confronted it, was my experience with the Clinton political apparatus and its *modus operandi*. At the heart of everything that apparatus and its operatives do, whatever the situation, is the process of lying.

Some of their lies have been whoppers, some trivial. Most have been dismissed as mere "spin," relatively few have been under oath, but the continuing pattern of distorting, avoiding and, when necessary, simply denying the truth goes back to the 1992 campaign. It has carried through the three Senate investigations in which I have participated. On a parochial note, it defined the process of creating a stealth National Monument in my state. It has permeated the entire PR campaign connected with the Lewinsky affair. The New York Times calls it "habitual mendacity."

If this were a standard trial, as juror I would not know any of that. I would have to make up my mind solely on the basis of the evidence presented here. Some would say I still should.

I believe that the Framers of the Constitution dictated otherwise. They chose the Senate as the trial court of impeachment deliberately, giving us extensive powers as both judge and jury, and they were not naive enough to think that we would check our understanding of the history of the accused President at the door as we took up this burden. They intended for this to be different than a typical trial court.

When I realized that, I began to rethink my earlier decision. With such a pattern of "habitual mendacity" running through his entire public career, could I really say that Bill Clinton's perjurious testimony before the Grand Jury didn't warrant removal?

I made my decision to change my vote to "guilty" on Article One during the closing arguments when Charles Ruff, the President's attorney, asked us a question with respect to an alleged high crime or misdemeanor. He asked, "would it put at risk the liberties of the people?"

As I watched a replay of the President's testimony repeating obvious lies while under oath, I realized that the answer is yes. A President who has demonstrated a capacity to lie about anything, great or small, whether or not under oath, does threaten our liberties. We cannot be sure of anything he says, we cannot trust his word, whatever the issue. We will always be fearful of where that trait of his could take us, and we should be.

So now I will vote guilty on both Articles, with a clear conscience that I have done my duty. And I would vote

the same if the President's name were Ronald Wilson Reagan.

Mr. REED. Mr. Chief Justice, for the past six weeks, the Senate has been engaged as a Court of Impeachment to try President William Jefferson Clinton—the first trial of an elected President in the history of the United States. Our deliberations will bring to a close more than a year of controversy which has left the American people both frustrated and dismayed. And, hopefully, our decision will serve as a means of rededicating the energies of our Government to the service of the American people.

In this endeavor, our solemn duty to the Constitution is paramount.

Conscious of these responsibilities and based on the evidence in the record, the arguments of the House Managers and the counsels for the President, I conclude as follows. The President has disgraced himself and dishonored his office. He has offended the justified expectations of the American people that the Presidency be above the sordid episodes revealed in the record before us. However, the House Managers failed to establish that the President's conduct amounts to "high Crimes and Misdemeanors" requiring his removal from office in accordance with the Constitution. Moreover, the House Managers also failed to prove, beyond a reasonable doubt, that the allegations in the Articles would constitute the crimes of perjury or obstruction of justice.

The Constitutional grounds for Impeachment, "Treason, Bribery, or other high Crimes and Misdemeanors," indicate both the severity of the offenses necessary for removal and the essential political character of these offenses. The clarity of "Treason" and "Bribery" is without doubt. No more heinous example of an offense against the Constitutional order exists than betrayal of the nation to an enemy or betrayal of duty for personal enrichment. With these offenses as predicate, it follows that "other high Crimes and Misdemeanors" must likewise be restricted to serious offenses that strike at the heart of the Constitutional order.

Certainly, this is the view of Alexander Hamilton; one of the trio of authors of the Federalist Papers which is the most respected and authoritative interpretation of the Constitution. In Federalist No. 65, Hamilton describes impeachable offenses as "those offenses which proceed from the misconduct of public men, or, in other words from the abuse or violation of some public trust. They are of a nature which may with peculiar propriety be denominated POLITICAL, as they relate chiefly to injuries done immediately to the society itself."¹

This view is sustained with remarkable consistency by other contemporaries of Hamilton. George Mason, a delegate to the Federal Constitutional

Convention, declared that "high Crimes and Misdemeanors" refer to "great and dangerous offenses" or "attempts to subvert the Constitution."² James Iredell, a delegate to the North Carolina Convention which ratified the Constitution and later a justice of the United States Supreme Court, stated during the Convention debates:

The power of impeachment is given by this Constitution, to bring great offenders to punishment. . . . This power is lodged in those who represent the great body of the people, because the occasion for its exercise will arise from *acts of great injury to the community*, and the objects of it may be such as cannot be easily reached by an ordinary tribunal.³

Iredell sustains the view that an impeachable offense must cause "great injury to the community." These interpretations strongly indicate that private wrongdoing, without a significant, adverse effect upon the nation, does not constitute an impeachable offense.

Later commentators expressed similar views. In 1833, Justice Story quoted favorably from the scholarship of William Rawle in which Rawle concluded that the "legitimate causes of impeachment . . . can have reference only to public character, and official duty. . . . In general, those offenses, which may be committed equally by a private person, as a public officer, are not the subject of impeachment."⁴

This line of reasoning was manifest in the careful and thoughtful work of the House of Representatives during the Watergate proceedings in 1974. The Democratic staff of the House Judiciary Committee concluded that:

[b]ecause impeachment of a President is a grave step for the nation, it is to be predicated only upon conduct seriously incompatible with either the constitutional form and principles of our government or the proper performance of constitutional duties of [the President's] office.⁵

This view was echoed by many of the Republican members of the Judiciary Committee when they declared:

. . . the Framers . . . were concerned with preserving the government from being overthrown by the treachery or corruption of one man . . . [I]t is our judgment, based upon this constitutional history, that the Framers of the United States Constitution intended that the President should be removable by the legislative branch only for serious misconduct dangerous to the system of government.⁶

This authoritative commentary on the meaning of "high Crimes and Misdemeanors" is supported by the structure of the Constitution which makes impeachment independent from the operation of the criminal justice system. Regardless of the outcome of an impeachment trial, the accused "shall nevertheless be liable and subject to Indictment, Trial, Judgment and Punishment, according to Law."⁷ The independence of the impeachment process from the prosecution of crimes underscores the function of Impeachment as a means to remove a President from office, not because of criminal behavior, but because the President poses a threat to the Constitutional order.

Criminal behavior is not irrelevant to an Impeachment, but it only becomes decisive if that behavior imperils the balance of power established in the Constitution.

The House Managers argue that we should apply the same reasoning to the removal of the President that we have applied to the trial of Federal judges. They make their argument with particular urgency in regard to Article I and its allegations of perjury since several judges have been removed for perjury.⁸

This reasoning disregards the unique position of the President. The President is elected and popular elections are a compelling check on Presidential conduct. No such "popular check" was imposed on the Judiciary. They are deliberately insulated from the public pressures of the moment to ensure their independence to follow the law and not a changeable public mood. As such, impeachment is the only means of removing a judge. And, the removal of one of the 839 Federal judges can never have the traumatic effect of the removal of the President. To suggest that a Presidential impeachment and a judicial impeachment should be treated identically strains credibility.

Moreover, the Constitution requires that judicial service be conditioned on "good Behavior." This adds a further dimension to the consideration of the removal of a judge from office. Although "good Behavior" is not a separate grounds for impeachment, this Constitutional standard thoroughly permeates any evaluation of judicial conduct. Judges are subject to the most exacting code of conduct in both their public life and their private life.⁹ Without diminishing the expectations of Presidential conduct, it is fair to say that we expect and demand a more scrupulous standard of conduct, particularly personal conduct, from judges.

The House Managers' argument is ultimately unpersuasive. Rather than reflexively importing prior decisions dealing with judicial impeachments, we are obliged to consider the President's behavior in the context of his unique Constitutional duties and without the condition to his tenure of "good Behavior."

Authoritative commentary on the Constitution, together with the structure of the Constitution allowing independent consideration of criminal charges, makes it clear that the term, "high Crimes and Misdemeanors," encompasses conduct which involves the President in the impermissible exercise of the powers of his office to upset the Constitutional order. Moreover, since the essence of impeachment is removal from office rather than punishment for offenses, there is a strong inference that the improper conduct must represent a continuing threat to the people and the Constitution, and not simply an episode that either can be dealt with in the Courts or raises no generalized concerns about the continued service of the President.

¹ See footnotes at end of speech.

Measured against this Constitutional standard, the allegations against the President do not constitute "high Crimes and Misdemeanors." The uncontradicted facts of the case paint a sordid picture of the President's involvement in a clandestine, consensual affair with a young woman. His attempts to disguise this affair collided with the Jones lawsuit; a lawsuit filed against him in his capacity as a private citizen, and not in anyway directed at his conduct as President. Over many months, he misled and he dissembled about his relationship with Monica Lewinsky. He lied to his family, he lied to his colleagues, and, on January 26, 1998, he lied to the American people. All of these lies were designed to disguise his illicit but consensual relationship with Ms. Lewinsky. Only after being compelled to testify before a Federal Grand Jury in August of 1998, did the President finally admit his relationship with Ms. Lewinsky.

The House Managers take this tale of deception and betrayal, more soap opera than high drama of State, and urge that it rises to behavior evidencing an impermissible exercise of his powers as President or an impermissible failure to discharge his duties as President which threatens the Constitutional balance of government and can only be remedied by the removal of the President. They urge too much. The allegations, even construed in the most favorable light to the House Managers, do not constitute "high Crimes and misdemeanors" as that term has been consistently interpreted over the course of American history.¹⁰

One could confidently stop at this point and reach a judgment to acquit the President. Such a judgment does not forgive the disreputable behavior of the President. Rather, it does, as it must, keep faith with the Constitution.

However, to stop at this juncture and ignore the allegations of criminal conduct could leave several misperceptions. First, such an approach could be criticized as failing to afford the House of Representatives in appropriate recognition as the proponent of Articles of Impeachment. The House of Representatives acted in the discharge of its exclusive Constitutional prerogative to Impeach the President. They cast these Articles as criminal violations, and due deference must be given to the decision of the House. Second, failing to examine the allegations of criminal conduct may leave the erroneous impression that criminal activity by the President can never rise to the level of "high Crimes and Misdemeanors." And, finally, failing to examine these allegations leaves in doubt charges of criminal misconduct against the President. Although the Senate does not sit as a criminal court, a condemnation or exoneration "by silence" would be unfair to both the President and to the American people.

The House Managers argue in Article I that the President committed the

crime of perjury while testifying before the Federal Grand Jury on August 17, 1998. They argue in Article II that the President committed the crime of obstruction of justice in the Jones case. After considering the evidence and the arguments of the House Managers and the White House counsels, I believe that the House Managers have not shown, beyond a reasonable doubt, that the President is guilty of the alleged crimes.

It is without dispute that the House Managers have the burden of proof. It is also without dispute that each Senator has the right individually to determine what constitutes the appropriate burden of proof. Because of the gravity of this impeachment process, but, more significantly, because of the urging of the House Managers,¹¹ I believe that a standard of beyond a reasonable doubt should be used.¹² This is the standard used in the prosecution of criminal cases.

Article I alleges that the President committed perjury before the Grand Jury by knowingly making false, material statements. The first great hurdle that the House Managers must overcome is the fact that the House refused to adopt an article of impeachment regarding the President's testimony at the Jones deposition. However one characterizes these two statements under oath, no one can argue that the President was more truthful at the Jones deposition. Most, if not all, would argue that he was considerably less truthful at the Jones deposition. This discrepancy fatally undercuts the contention that this Article constitutes "high Crimes and Misdemeanors," and it seriously erodes the claim that the President committed the crime of perjury before the Grand Jury. Unlike the Jones deposition, the President admitted up front in his Grand Jury testimony that he had engaged in "inappropriate intimate behavior" with Ms. Lewinsky while they were "alone."

Confronted with this preemptive statement by the President, the Article generally alleges perjury without citing specific statements from the Grand Jury testimony and leaves the House Managers with the task of sifting through the record to suggest examples of the President's alleged perjury. They suggest four general areas.

First, they point to discrepancies between the testimony of the President and Monica Lewinsky about intimate details of their relationship. This is a difficult proposition to prove without corroborating evidence, and the House Managers offer none. Moreover, some of these details, such as the number of times they engaged in sexual banter on the phone, are just not material.

Second, the House Managers attempt to ignore the President's preliminary statement and argue that he adopted the "perjurious" testimony of his Jones deposition. This is simply not true. To make this assertion, the House Managers use the President's

Grand Jury testimony that "I was determined to walk through the mind field of this deposition without violating the law, and I believe I did."¹³ But, the President's peremptory statement clearly indicated that he was not vouching for the facts of his Jones deposition. The President's statement expresses his state of mind. It is not an affirmation of the Jones testimony. Not even Independent Counsel Starr alleged that the President committed perjury in this way.

Third, the House Managers allege that the President's silence, while his counsel made representations about the Lewinsky affidavit, constitutes perjury. This novel theory of "unspoken perjury" fails from the lack of any conclusive evidence concerning the President's state of mind at this time. Such evidence is necessary to prove the specific intent to establish the crime.

Fourth, the House Managers alleged that the President committed perjury when he denied his involvement in the obstruction of justice, particularly his alleged involvement in the exchange of gifts between Monica Lewinsky and Betty Currie. This topic will be discussed in more detail with respect to Article II. At this juncture, it is sufficient to note that the House Managers have not presented evidence to indicate beyond a reasonable doubt that the President committed perjury.

Fifth, the House Managers allege that the President committed perjury when he denied "coaching" Betty Currie. Again, this issue will be addressed in more detail with respect to Article II. But, this allegation also fails from the absence of persuasive evidence establishing the President's specific intent in conducting this conversation with Ms. Currie.

Finally, the House Managers allege that the President committed perjury when he gave false information to his aides about his relationship with Ms. Lewinsky. This too raises the issue of the President's state of mind. His Grand Jury testimony expressed his belief that he tried to say things that were true. He acknowledged that he misled, but he asserted that he tried not to lie. To prove that these statements are perjurious, the House Managers had to prove that the President had the necessary specific intent. They have not done so.

Article II alleges that the President obstructed justice. The article sets forth seven "acts" which the House Managers argue the President used to implement this "scheme."

Three of these alleged "acts," encouraging Monica Lewinsky to file a false affidavit, urging her to give false testimony, and finding her a job to obtain her silence, crash on an immovable evidentiary rock: Monica Lewinsky's uncontradicted and often repeated statement, "no one ever asked me to lie and I was never promised a

job for my silence.”¹⁴ The House Managers offered other circumstantial evidence, but this too failed to be persuasive.

The fourth “act” involves the transfer of gifts between Ms. Lewinsky and Ms. Currie. Although Ms. Lewinsky’s testimony strongly suggests that the President directed Ms. Currie to retrieve gifts, the two parties to this suggested transaction, the President and Ms. Currie, flatly deny any such conversation. Certainly, there is more than a reasonable doubt based on this conflicting testimony; particularly, since no one has ever impeached Ms. Currie’s credibility.

The fifth “act” recharacterizes the President’s silence, while his attorney made representations about Ms. Lewinsky’s affidavit, as obstruction of justice. This allegation fails based on the lack of any conclusive evidence of the President’s state of mind.

The sixth “act” involved the purported coaching of Betty Currie by the President after his Jones deposition. This allegation too turns on the President’s state of mind. The House Managers argue that the President’s intent was to influence the testimony of Ms. Currie as a potential witness. White House counsels argue that the President had no reasonable anticipation that she would be a witness. But, more decisively, they argue that his intent was to confirm his story in anticipation of a media onslaught. The lack of persuasive evidence about his state of mind also undercuts this allegation.

Finally, the last allegation involves the President’s purported attempt to influence the testimony of his aides. Again, the House Managers have not shown beyond a reasonable doubt that the President intended to make his statement to influence their testimony. There is an equally plausible inference that the President was simply continuing his public campaign to deny his relationship with Ms. Lewinsky. This campaign led him to lie to the American public and no one suggests he was then tampering with witnesses. Indeed, as a result of these public statements, it seems unlikely that he would tell his aides anything else.

The House Managers have not sustained their burden of proof in regard to Article II.

It is clearly evident that the facts of the case require acquittal. As such, serious questions can and should be raised about the unwarranted extension of the trial. Given the significant doubts surrounding the case of the House Managers, a motion to dismiss, followed by a debate on censure should have been utilized to properly put an end to these proceedings. Instead, a majority of the Senate accommodated the desire of the House Managers to excessively pursue allegations that were politically damaging to the President. Indeed, had members of the House of Representatives been allowed to consider censure this matter may never have reached the Senate.

We, as a nation and as the Senate, have come to the end of a long and

wearisome road. It has wandered through scandal and deception. Many of those who have trod this road, both individuals and institutions, have seen their reputations besmirched. The journey emanated from the reckless conduct of William Jefferson Clinton. But, the passage has also exposed vicious political partisanship and the reckless and relentless exploitation of the powers of the Independent Counsel. In the midst of this dishonor, deception, and rancor, we could have easily lost our way. But, we reached this moment because we have been guided by the Constitution and inspired by the common sense and common decency of the American people, and with such a guide and such inspiration, we will do justice with our votes, whether they be to conflict or acquit.

And for my part, the Constitution and the evidence compels me to vote to acquit the President on both Articles of Impeachment.

FOOTNOTES

¹ *The Federalist Papers*, No. 65 (Hamilton) at 396 (Clinton Rossiter, ed., 1961) (emphasis in original).

² Max Farrand, ed., *The Record of the Federal Convention of 1787*, at 550 (1966).

³ Jonathan Elliot, *Debates on the Adoption of the Federal Constitution*, at 113 (emphasis added).

⁴ Joseph Story, *Commentaries on the Constitution* §799 at 269-270 quoting William Rawle, *A View of the Constitution of the United States* at 213 (2d ed. 1829).

⁵ *Constitutional Grounds for Presidential Impeachment*, Report by the Staff of the Impeachment Inquiry, House Comm. On Judiciary, 93rd Cong., 2d Sess. at 26 (1974).

⁶ *Impeachment of Richard M. Nixon, President of the United States*, Report of the House Comm. on the Judiciary, 93rd Cong., 2d Sess., H. Rep. 93-1305 at 364-365 (Aug. 20, 1974) (Minority Views of Messrs. Hutchinson, Smith, Sandman, Wiggins, Dennis, Mayne, Lott, Moorhead, Maraziti, and Latta).

⁷ U.S. Const. Art. I §3, Cl. 7.

⁸ For example, both Judge Walter L. Nixon, Jr. and Judge Alcee L. Hastings were convicted based on charges of perjury.

⁹ The Judicial Conference of the United States publishes a Code of Conduct for United States Judges, as prepared by the Administrative Office of the United States Courts. Canon 2 of the Code requires federal judges to “avoid impropriety and the appearance of impropriety in all activities.” (March, 1997.) This Canon requires a Judge to at all times act in “a manner that promotes public confidence in the integrity and impartiality of the judiciary.” Perceived violations of the Code could result in a complaint to the Judicial Conference, which can make referrals to the House Judiciary Committee.

¹⁰ These allegations are a far cry from the most relevant historical precedent, the Watergate affair of President Richard M. Nixon. For example, President Nixon attempted to cover up a burglary of the Democratic National Committee by enlisting the authority and the assistance of the Central Intelligence Agency. The precipitating event of this crisis was a direct attack on a fundamental Constitutional tenet, the right to free and fair elections unimpeded by the criminal attempts to steal information and wiretap telephones. Moreover, President Nixon liberally exercised the formal powers of his office to impede the investigation.

¹¹ Mr. Manager McCollum stated, “none of us, would argue . . . that the President should be removed from the office unless you conclude he committed the crimes that he is alleged to have committed.” 145 Cong. Rec. S260 (daily ed. Jan. 5, 1999) (Statement of Mr. Manager McCollum). The House Managers invited the Senate to arrive at a conclusion beyond a reasonable doubt before voting to convict the President. I take them at their word.

¹² The adoption of a standard of “beyond a reasonable doubt” in this matter should not be construed as implying that the same standard must be utilized in each and every Impeachment proceeding. Conduct of “civil officers” in the performance of their official duties might pose such an immediate threat to the Constitution that a less exacting standard could properly be used. Any choice of a standard of proof must, at a minimum, consider the nature of the allegations and the impact of the alleged behavior on the operation of the government.

¹³ Grand Jury Testimony of President Clinton on 8/17/98 as cited in the House Managers’ Trial Brief, p. 60.

¹⁴ Part I, *Appendices to the Referral to the U.S. House of Reps.*, Communication from The Office of the Independent Counsel, Kenneth W. Starr, 105th Cong. 2d Sess., H. Doc. 105-311 (September 18, 1998) at 1161. (Ms. Lewinsky responding to a question from a juror). See also Counsel to the President’s Trial Brief, p. 57.

Mr. ENZI. Mr. Chief Justice and Colleagues of the Senate.

This has been a month long ethics and Constitution class—with mandatory attendance. That should have value for each of us.

I’m getting more mail each day than I normally get in a month—and most of it is from your constituents. That’s right. Out of every 1000 letters I get, only 30 are from Wyoming. I have some ideas what your constituents are saying. I’m not a lawyer. I’m not going to present any legal arguments. Most of my constituents aren’t lawyers. I notice that most of your constituents aren’t either.

I’ve only served on one jury before and we didn’t even get to render a verdict. A boy was being tried for poaching deer out of season—shot with a twenty-two. He was caught red-handed in the barn with the twenty-two and two of the six deer hanging to be butchered. The Boy’s argument began claiming he hadn’t been properly read his rights. His dad, supporting from the audience, stopped the trial by asking the judge if he could speak with his son. They went into the hall a couple minutes. A boy freshly chastised said, “I want to plead guilty. In our family we don’t believe in getting off on technicalities.” A successful trial. I watched a boy become a man.

I thought about propounding a unanimous consent that anything already said couldn’t be repeated as testimony even though it could be submitted. I thought that would speed up the proceedings. I will not propound it but will attempt to follow it. Instead of the smooth transitions and brilliant arguments, you will only hear what is left. I trust you will rush to get a copy of my whole statement. Here goes!

The President was so thorough in denying any relationship with Monica Lewinsky, that Janet Reno believed him. Janet Reno is the person who expanded the investigation into the Monica Lewinsky matter. The President told all of us he had done nothing wrong. His own Attorney General believed him. Janet Reno was helping to clear the air on these ludicrous charges when SHE gave Ken Starr the approval, direction and budget.

When our country was founded oaths meant everything. A man’s word was his bond. Their oath was honor and duels were fought to defend honor. When this trial started you and I had to take an oath. It struck me that I might be taking an oath to determine if oaths still mean anything.

The White House argues that the President’s actions will not have an affect on anyone. I am hearing from

judges who say people before their court are asking for the same treatment given the President. They do not feel their situation is as blatant as the President and they are more repentant and remorseful. Some have even taken action to correct their wrong. All feel they should get a suspended sentence.

I was disappointed with the White House failure to explain all of the charges. Their rebuttal was focused on those charges for which they felt they could answer or, more accurately use to create the most confusion. Skipping the tough issues is not an answer. This is not an issue of spin or even polls.

Impeachment is the most serious indictment a President or judge can get. The President was impeached by the House of Representatives. His reaction was to celebrate in the Rose Garden of the White House—spin again—more spin than a kid's top. Truth was needed. Dizzy deception is what we've gotten.

The President's Counsel admit he lied, was evasive, misleading. The words and adjectives used by the White House Counsel during the trial should be enough to condemn the President. But they still expect us to trust the President with the country? Do you think he will only lie about sex? This man sends our children into war. He has to be held to the highest standard. I would feel more comfortable if even one person would have said, "He didn't do this." Only the President said that, and we all know he wasn't truthful.

Last year an Air Force pilot, an officer, was forced to resign. She was having a consensual sexual affair. It was adultery. She didn't lie about it. She was forced to resign—removed from office—because we couldn't trust her with deadly weapons. The President pushes the button on the whole world—not just on one plane. Oh, that's right, this isn't about personal sex. No one would ever be removed from office for that.

But the President is doing a great job. Job performance cannot be the defense for perjury or obstruction of justice or sexual harassment or any other crime. If a bank president embezzled even a little money from his bank would we leave him alone? Would we say, "That's okay because the bank was doing well"?

We had a hypothetical situation posed to us—an employee who controlled the whole computer system and he did what the President did. If there is any parallel, you'd fire him! You'd fire him because you have been cross-training a vice president of computer systems. I've listened to the arguments about world peace and I've got to say, that's a terrible indictment of the capabilities of the Vice President.

When the video evidence was countered, White House Counsel had one presentation on Ms. Lewinsky's testimony. A second presentation was made on Vernon Jordan's testimony. Why didn't White House Counsel counter Sidney Blumenthal's testimony at all?

Charges made, charges unanswered. If you have enough votes, I guess you only need to look credible.

Presidents have power. Power draws loyalty. Are we a country with one set of standards for the rich, famous, or powerful? Is that the way we want our country to be? This isn't even a popularity contest. Popularity cannot be a defense in an impeachment trial.

House manager ROGAN said he would risk his political future for the Constitution. He said, "Dreams come and dreams go, but conscience is forever." We are supposed to be the collective conscience of our nation. Are we trying instead to salve our conscience?

We talk of censure? Isn't that just another way to salve our conscience. When this trial is over we better come together as a nation—undivided and behind whoever is the President—not debating again to what dreg he is bad.

Some have been wrestling with whether the offenses "rise to the level of impeachment". The founders may have been a lot tougher than we are. We've talked about a guilty vote by a two thirds majority removing from office. The founders provided for a second vote—a vote that takes away more rights and honor—the right to hold public office ever again. Should we suggest the offenses, especially in the cumulative, rise to the level of impeachment and then wrestle with the question and vote on "forever"? Judges are appointed for life. Presidents have the title for life.

I heard a suggestion that we can't remove the President for sexual harassment because we are not his boss or because he has such a critical position. The founders recognized both those circumstances. We are not the President's boss—but we have been given that responsibility through impeachment. He holds a critical position, that's why the founders established the succession. And remember, that was when impeachment could put another party into the presidency. And that was when the Senate was appointed, not elected.

"The Rise and Fall of the Roman Empire" was a book we were introduced to in high school. Rome went through this phase too. Free lunches for the masses, an emphasis on entertainment, and no accountability for the powerful. We have seen the rise of America. Will we be listed in history as the start of the fall? Our society is eroding. Our values are disappearing. If you watch the news, many nights the main lead even during this trial is about the multiple murders right around us.

We've been talking about "an impeachable standard". We've talked about the "Reagan Test" I'm going to suggest two more tests. The "Mom Test" and the "Spouse Test". When you were growing up, did your mom need proof "beyond a reasonable doubt" before punishment? Did she ever say, "Don't put yourself in a position where it even looks like you did something wrong." Circumstantial evi-

dence was enough. Did your mom ever say, "Watch out who you hang out with. It reflects on you." Did your mom say, "Watch your actions—they reflect on you and your family"? Did your mom ever say, "Act so I won't be embarrassed tomorrow reading the front page of the paper about what you did today." The President has complained that others are out to get him. That he is the most investigated President in history. Perhaps he ought to apply the "Mom Test".

What about the "Spouse Test"? My wife has applied that test. She said, "If this were a Republican President, I would have already chained myself to the White House fence until he resigned." She is absolutely stymied that women's groups haven't done that. For years she and I fought the accusations that women's groups were only about allowing abortion—but their silence on the President has changed my mind. I will not defend them as they have not defended any woman defamed by the actions and the words of the President. And a final "Spouse Test"—when you are playing games with sex definitions ask, "What would my spouse think I was doing?"

While we may have a country doing well economically we are headed toward moral bankruptcy if the trend is not reversed. We are becoming "Dem-Moralized".

With this case we are all in a "no-win" situation. We have heard the media and the Democrats note that the Republicans are committing political suicide. But just as many mention the Democrats are filing moral bankruptcy. History will be the judge of us all. Our constituents just expect us to do "What is right"! They will expect us to do what is right based even on what comes out in the future. Yes, what is right based on the books and future disclosures of the participants. They will judge us even based on the future actions of this President. Our words will be forgotten, our verdict won't.

This isn't about politics. Its about our country. Its not about Bill Clinton. Its about the future of the Presidency. The process is on trial. The Senate is on trial. No, Truthfully, Truth is on trial!

As we enter into our final deliberations on whether or not to convict President Clinton on the two articles of Impeachment presented to us by the House of Representatives, I think it is imperative that we remember the oath each of us took at the outset of this historic process. Each one of us took an oath before God to do "impartial justice according to the Constitution and the laws." That oath should guide our thoughts and actions for it reminds us of the gravity of this process and the weighty responsibility we assumed by our own free will. We must finally remember that we answer not only to future generations who will judge whether we did right by the Constitution we swore to uphold, but also to that eternal witness of our most solemn oath.

I will be the first to admit that striving to be impartial has been very difficult. To be a good juror is a heavy burden. That duty is heightened when one is also called to wear a judge's robe when sitting as a silent juror weighing the evidence, probing the credibility and motives of the various witnesses, and ascertaining the appropriate law which applies to the facts before you. There are few duties we will face in our life as grave as this one: to decide the political fate of the President of the United States.

Before the trial started I read everything I could find that dealt with impeachment history. As the trial progressed, I read volumes of published evidence including the prior testimony of the witnesses in this proceeding. I have attended all of the proceedings in the Senate from start to finish. I have carefully watched all of the videotaped depositions. I have read all of the transcripts of these depositions. I watched many parts of the depositions several times to be sure I understood exactly what each witness was saying and how that testimony fit with that witnesses' prior testimony and with the testimony of other witnesses who testified under oath. These depositions were very helpful in focusing the key points of this trial and deciding who was testifying truthfully and who was lying in instances where the testimony is in conflict. In short, I believe I have taken into account nearly all of the pertinent information in this case in coming to my final decision.

This case challenges us to consider whether, in light of all the evidence, President Clinton's actions indicate that he has, in the words of Alexander Hamilton, "abused or violated some public trust." In making this determination, we must first decide whether allegations presented by the House Managers do in fact constitute "high crimes and misdemeanors" as contemplated in Article II, Section 4 of the Constitution. I have come to the conclusion that they do.

I believe that perjury and obstruction of justice demonstrate intentional, pre-meditated violations of an indispensable public trust. In taking the oath of office, President Clinton twice raised his right hand and placed his hand on the Bible swearing to uphold and defend the Constitution and to faithfully execute the laws of the United States. By this oath, he took upon himself the duty to be the chief law enforcement officer of the United States. Actions which undermine this high duty, whether they involved committing perjury in a judicial proceeding or obstructing justice, strike at the very heart of the rule of law.

There is no contradiction that perjury and obstruction of justice are serious crimes for the average citizen in the United States. Both of these offenses presented by the House managers are felonies under the federal criminal code, and both carry equivalent or even higher minimum sentences

than bribery under the federal sentencing guidelines. Nor is the seriousness of these crimes simply a matter of abstract speculation. We heard video testimony of a real, live citizen who has paid a very heavy price indeed for the crime of perjury. In July of 1995, Dr. Barbara Battalino, a physician who worked for the Veterans Administration, lied under oath about an encounter she had had with one of her patients. As a result of this perjury, Dr. Battalino was fired from the Veterans Administration, she lost her license to practice medicine, she was prohibited from ever practicing law (she also had a law degree), and she was required to wear an electronic ankle bracelet for 3 years. Those who argue that perjury about sexual matters is not serious owe Dr. Battalino a heartfelt apology. Dr. Battalino lied one time about one consensual act of oral sex.

Moreover, both perjury and obstruction of justice were counted among the list of "public wrongs" as opposed to private wrongs under Common Law at the time of the American founding. These are the very kind of crimes the founders contemplated when they included the impeachment and removal mechanism in the Constitution. These crimes were not considered to be private offenses by the Common Law, nor by the Founding Fathers. The pre-eminent commentator on the English Common Law at the time of the American founding, William Blackstone, described perjury, or false swearing in a judicial proceeding, as an "offense against public justice." As with perjury, obstruction of justice was considered a "high misprision" or "high misdemeanor" at the time of the drafting of our own Constitution.

It should be remembered that this Senate has convicted and removed federal judges for perjury. In the 1980s alone, this body removed three federal judges for lying under oath. Many in this chamber had occasion to vote in those cases and voted to remove these judges because they saw that the act of perjury, even if it involved lying about one's taxes, was incompatible with a judge's duty to uphold the constitution and laws of the United States.

When confronted with these very recent precedents, the White House lawyers have argued that this Senate should apply a lesser standard to the President than to federal judges. They argue that federal judges should be held to a higher standard because they are given life tenure under Article III of the Constitution. I must admit, that this is an argument that I cannot square either with the plain language of the Constitution or with common sense. Do we really want to hold our President to a lower standard than the federal judges he appoints? It is our President, after all, who appoints all the United States attorneys and the federal marshals, who names all the cabinet officials, who has the authority to send American troops into battle, and who can sign treaties with foreign

nations. A corrupt federal district court judge can work injustice on the litigants who enter his courtroom. A corrupt President, by contrast, has the power to wreak havoc on the entire political order.

The President's oath forbids him to selectively decide whether to follow the laws of the land based on a calculation of political expediency or determination of personal gain or loss. He is bound to follow Constitution and the laws of our country in and out of season. By intentionally violating this duty, the president's actions display the tendencies of an unbridled monarch rather than a constitutional executive who must bow before the law he swore to faithfully execute.

On the specific article of perjury, there is abundant evidence that President Clinton violated his oath to "tell the truth, the whole truth, and nothing but the truth" on several occasions. As the chief law enforcement officer of the United States, the President was bound to "tell the whole truth" and act in a manner becoming of the dignity of his office. President Clinton did not do this. When asked before the federal grand jury on August 17, 1998 whether he understood that he had an obligation to tell the truth, the whole truth, and nothing but the truth in his prior deposition of January 17, 1999 in a federal civil rights suit, the President testified that "His goal was to be truthful, but not particularly helpful". He later admitted that his testimony had been "misleading". For any plain speaking American, to be misleading is the same as lying. In short, the President violated his oath to "tell the whole truth" when he misled the court.

The facts indicate that President was not attempting to be truthful and was not truthful in his deposition in the Jones federal civil rights case. Moreover, he lied about the nature of his relationship with a subordinate employee before the federal grand jury. The President also allowed his attorney, Robert Bennett, to file a false affidavit on his behalf denying his relationship with Monica Lewinsky. The President continued this pattern of deception by lying to his top aides with the knowledge that they were likely to be called as witnesses before the federal grand jury. He then attempted to cover up these lies by claiming he had possibly "misled" his aides, but he did not lie to them since he knew they were likely to be called as witnesses before the federal grand jury. These were lies. They were lies under oath. They were lies that adversely impacted the rights of a United States citizen to obtain relief in a civil rights case in federal court. They were lies under oath in a federal grand jury after he had been begged by his aides, his friends, and some in this chamber to finally tell the truth. They were lies of a public character and they were unbecoming the chief law enforcement officer of our country.

What is perhaps most disturbing about these lies, is that the President's

actions indicate he had no intention of ever telling the truth of his relationship. He had already lied under oath in a federal civil rights action, he lied to his top aides and cabinet officers, he lied to his friends and political allies, and he lied with perfect calculation to the American public, including myself. I remain convinced that the only reason the President admitted his relationship at all was the discovery of the now famous "blue dress". Only when it became clear that he could no longer continue his pattern of judicial and public deception did the President admit that he had in fact had an "improper relationship" with Monica Lewinsky. Unfortunately, the President's deception did not end with the revelation of the DNA. Rather, it graduated to legal hairsplitting, attempts to torture plain English language, and statements which degraded the judicial process and insulted the intelligence of the American public. The President has not carried out the public trust the American public entrusted to him when he was twice elected President.

When the President's actions became public, the President even turned his sword of deception against his partner in perjury. Once the Washington Post broke the story on the President's extra-marital affair and his possible perjury and obstruction of justice, the President called in his top aides to deny the story and destroy the character of Monica Lewinsky. We have seen and heard the video testimony of one of President Clinton's top aides, Sidney Blumenthal. Immediately after the story broke, President Clinton called Sidney Blumenthal into the Oval Office and denied the entire story. He went on to say that Monica Lewinsky was a troubled young woman who was called the "stalker" by her peers. He said that she came on to him and made a sexual demand of him, but he rebuffed her. The President went so far as to claim that Ms. Lewinsky had threatened to tell people that she had had an affair with him, even though it was not true. In the words of Mr. Blumenthal, the President "lied to him." As expected, Mr. Sidney Blumenthal repeated these lies before the federal grand jury. There is also growing evidence that Mr. Blumenthal, or other key White House aides, circulated these lies to the popular media. Such conduct further establishes that the President was willing to go to all lengths to prevent anyone from discovering the truth about his illegal conduct in a federal civil rights case.

The President's lawyers argued that the President could not have intended to corruptly influence the grand jury proceeding since the lies the President told his top aides were no different than the lie the President told the American people when he adamantly denied having "sexual affairs, with that woman, Miss Lewinsky." If this is the best defense the White House lawyers can wage for their client, it speaks volumes about the President's char-

acter. Unfortunately, it is also false. The President never told the American people that Monica Lewinsky was a stalker, or that she wore her skirts too tight, or that she came on to him and made sexual demands on him. This is exactly what the President told his aide, Sidney Blumenthal. The President never enumerated the sexual acts he "did not commit" with Monica Lewinsky. He did deny with great specificity, these acts when questioned by his assistant chief of staff, John Podesta. The President did lie to the American public. However, he also told other lies to his top aides, knowing that they were likely to be called as witnesses before the criminal grand jury.

There is also substantial evidence that the President attempted to obstruct justice in both the civil rights case brought against him and the federal criminal investigation conducted by Judge Starr. It should be noted that Judge Kenneth Starr's investigation was not the creature of President Clinton's political enemies, as some have asserted. President Clinton's own Attorney General, Janet Reno, directed Judge Starr to expand his investigation to include the allegations in this case. If Janet Reno is a member of the vast right wing conspiracy, then that operation is very vast indeed.

We now know that the Monica Lewinsky filed a false affidavit in the Jones civil action. We also know that the President called Ms. Lewinsky at home at 2:30 in the morning to inform her that she had been named on the witness list in the Jones Civil Rights case. We also know that in this conversation, the President also suggested Ms. Lewinsky could file an affidavit to avoid testifying. Finally, we know that the President reminded Ms. Lewinsky of their agreed upon "cover stories" to conceal their relationship. While President's lawyers have made much over Ms. Lewinsky's statement that "the President never asked me to lie", they are unable to put a positive spin on the cover stories and the President's attempts to encourage Monica Lewinsky to file an affidavit in the first place.

It stretches the bounds of credulity beyond recognition to believe that the President intended Ms. Lewinsky to tell the truth when: 1) he himself lied under oath about their relationship, 2) he reminded Ms. Lewinsky of their cover stories in the same conversation in which he suggested that she file an affidavit, and 3) he relied on Ms. Lewinsky's false affidavit in his own testimony denying their relationship. Finally, when Ms. Lewinsky asked President Clinton if he wanted to see her signed affidavit, he said he didn't need to see it because he had "seen fifteen others like it". This response remains one of the more puzzling in this case and leaves open the possibility that the President tampered with other witnesses in the Jones Civil Rights case.

We also now know that the President's personal secretary, Betty Currie,

hid presents under her bed that had been subpoenaed in the Jones case. These are the gifts the President had given to Monica Lewinsky during their relationship. Ms. Lewinsky has testified that Bettie Currie definitely called her about the gifts, and the only way Ms. Currie could have known about the gifts is if the President instructed her to pick them up. While the President's lawyers deny this explanation, the only phone record we know about is a phone call made from Betty Currie to Ms. Lewinsky on the day she picked up the gifts. The President's lawyers have failed to produce any concrete evidence to contradict this explanation. Concealing gifts that are under subpoena in a legal proceeding is illegal and it obstructs the administration of justice.

Moreover, the conclusion that it was in fact President Clinton who directed Betty Currie to conceal the presents is bolstered by the fact that the President corruptly attempted to influence Ms. Currie's testimony in a federal civil rights suit. President Clinton made several false statements to Betty Currie on Sunday, January 18, 1997, the day after he testified in the Jones lawsuit. Ms. Currie, who explained that it was very unusual for the President to ask her to come in to work on a Sunday, testified that President Clinton made a series of false statements to her as if asking for her consent. Specifically, the President stated to Ms. Currie: 1) "You were always there when she [Monica Lewinsky] was there, right? We were never really alone." 2) "You could see and hear everything." 3) "Monica came on to me, and I never touched her, right?" 4) She wanted to have sex with me and I couldn't do that." All of these statements were false, and all of them occurred the day after Judge Wright had expressly forbidden any of the parties deposed or their attorneys from discussing the deposition with anyone.

The President's lawyers have argued that the President made these statements to refresh his recollection or to find out what Ms. Currie knew in the event of a press avalanche. Neither of these explanations is plausible. It is impossible to refresh one's recollection with false, leading questions. It is also impossible to find out what someone else knew if you tell them what they are supposed to believe. The plausibility of either of these explanations is entirely discounted when you consider that the President called Betty Currie in a second time, on January 20th to "remind" her of these statements. The most likely explanation for these statements is far more sinister. That President was intending to influence the testimony of a likely witness in a federal civil rights proceeding. President Clinton was, in fact, trying to get Betty Currie to join him in his web of deception and obstruction of justice.

The inescapable conclusion I have come to is that the President of the United States set upon a deliberate, premeditated plan to deceive the court

in two separate legal proceedings and to encourage others to deceive the court as well. The President first defended himself by claiming to be the unfortunate victim of a vast right wing conspiracy. Only after the physical evidence uncovered the truth about his affair did the President claim he was only trying to protect his family from these embarrassing revelations. Neither of these excuses justifies the President's actions. A defendant in a legal proceeding does not have the right to perjure himself because he questions the motives of the plaintiff. There are proper legal procedures and remedies available to any defendant who believes he has been the victim of a lawsuit predicated on frivolous legal theories or springing from personal malice. It is, however, never legitimate to respond to even a frivolous lawsuit by lying under oath.

There has been a great debate on how the President's actions will impact our nation, especially if those actions go unpunished. Last year I read of a town in Midwestern America that had experienced a number of killings in the first two months of the year. A consultant was hired to find the cause of these brutal acts. I believe the findings in his report should cause all of us to take pause. He explained that first a window is broken and nobody fixes it. That leads to a lawn that isn't mowed. Through a series of similar instances, the kids think nobody cares about them. If we let the President off for intentionally violating the rule of law, what do we tell our children when they are caught breaking the law? That we have one law for the rulers and another for the ruled? Do we tell them they have to follow the law until they become powerful enough, or clever enough, or rich enough to violate the law with impunity? What do we tell the federal judges who have lost their robes and gavels for committing perjury? What do we tell military officers who have lost their livelihood for violating their oaths and rules of their office? What do we tell average citizens who have lost their jobs, their freedom, and their fortunes for violating their oaths to tell the truth in a court of law? If the legacy we leave to our children is one of cynical duplicity, I fear that even an ever-increasing Dow Jones' average will be incapable of salvaging our next generation, or even, I fear, our civilization.

I must conclude that while the power of Impeachment and removal is a strong measure and one that should never be taken gently, it is an indispensable remedy in our government for those public officers who have so violated their public trust as to be unworthy to continue holding offices of public trust. The great Supreme Court Justice and Constitutional scholar Joseph Story perhaps best summarized the impeachment mechanism as one which "holds out a deep and immediate responsibility, as a check upon arbitrary power; and compels the chief

magistrate, as well as the humblest citizen, to bend to the majesty of the laws." Those who would disregard this rule of law for their own personal or political ends must not be allowed to remain in offices of public trust. For this reason, I will vote to convict President Clinton on both articles of Impeachment.

I thank the chair and yield the floor.

OPINION OF SENATOR RUSSELL D. FEINGOLD IN THE TRIAL OF WILLIAM JEFFERSON CLINTON

Mr. FEINGOLD. Mr. President, I ask unanimous consent that my opinion in the recently concluded impeachment trial of President William Jefferson Clinton be printed in the RECORD.

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

OPINION OF SENATOR RUSSELL D. FEINGOLD

- I. Introduction
- II. Analysis of Alleged Federal Crimes
 - A. Standard of Proof
 - B. Perjury
 - C. Obstruction of Justice
- III. High Crimes and Misdemeanors
- IV. Conclusion

Only 154 Senators have ever been sworn to sit in a Court of Impeachment for the trial of an American president. For this senator, to sit in judgment of this President was a sorrowful experience. The President and I began our careers in Washington together in January 1993. On the crisp, winter day of his first inauguration, I was moved by the poetry of Maya Angelou, which celebrated the "pulse of . . . [a] new day" in American politics and culture. All along in this process, I have regretted that his presidency has come to this, but have sought not to personalize that regret in a way that would affect my judgment. Taking the oath of impartiality on January 7 helped me to do that, but let me say, I very much regret that the President's conduct brought us to this day.

This somber experience requires a senator to blend three different considerations: (1) the historical purposes of impeachment and the record of past impeachments; (2) the current legal and political merits and implications of these impeachment proceedings; and (3) the potential impact of the current impeachment proceedings on future impeachments and the stability of the American constitutional system.

In attempting to reconcile these considerations, a senator has only the Andrew Johnson impeachment trial to look to for precise precedents for a presidential impeachment trial. Each senator is expected to render independently his or her judgment about the applicable law and then to apply that law to his or her own individual understanding of the facts of the case. This Opinion is an explanation of my attempt to meet that challenge.

I. INTRODUCTION

Strive as they may to minimize its import, the House Managers and those advocating removal of the President must recognize that the single most salient fact in this entire case is that on November 5, 1996, 47,402,357 Americans voted to reelect William Jefferson Clinton. That decision was the right and the responsibility of the American people.

By contrast, impeachment and removal from office prior to the expiration of a president's four year term of office must be viewed as an extreme and radical remedy, given that it overrides the solemn, quadren-

nial decision of the American people. For us to remove a duly elected president could well be the most momentous constitutional event in the history of our country, save the Civil War. The people choose their leaders in America, and we must not lightly reverse their will. To overrule the voters, the offense must be grave and the case must be very strong.

Too much of the rhetoric in this impeachment debate has focused on whether the President should be permitted to keep "his" job, in light of his unacceptable behavior. The question is better phrased as whether the President's conduct is sufficiently egregious to require the Congress to undo the decision of more than 47 million Americans to give him that job in the first place. Nor is it a valid argument or palliative to suggest that the same number of Americans also voted for Vice President Albert Gore Jr., and that he would become president upon President Clinton's removal. This argument is far too dependent on the particular nature of the unusual positive connection between this President, this Vice-President, and the American people. It flies in the face of the few actual examples of past presidents who faced the prospect of impeachment.

In 1868, President Johnson, an unpopular president who had been President Lincoln's vice-president, himself had no vice president. A member of the Senate would have succeeded him had he been convicted. In the case of President Nixon, whose resignation merely substituted for a nearly certain removal from office in an impeachment trial, Gerald R. Ford was elevated to the presidency. He had never been elected popularly to an office higher than the House of Representatives. In any event, the political similarity of a vice-president to a president cannot be taken seriously as an argument that conviction will be less wrenching for the country or damaging to the institution of the presidency. The crucial fact in this case remains that on November 5, 1996, the American people hired one man and one man alone to be their president, and they have a right to expect that their decision will be honored and preserved, except in the most dire circumstances.

This principle does not apply in the same way to the impeachment of judges. Elected presidents and appointed judges are chosen differently and their removal must be considered differently. They are starkly different in the nature and scope of their duties and in the sources of their constitutional legitimacy.

In the American constitutional system, it cannot soundly be argued that every precedent from past impeachments of judges must control in the impeachment of an elected president. I do not suggest here a lower standard of behavior for presidents. Rather, I believe that our system requires a higher standard for removal of an elected president than for an appointed judge. Judges serve for life "during good behavior." That is a long time, with no means of removing a judge except impeachment. Presidents are chosen by the people in a sacred democratic process. If the people become displeased with the president they have chosen, they need only wait for the next election or the end of his term.

Thus, the analogy of an elected president to an appointed judge is weak. Weaker still are the arguments that the President must be removed because a corporate manager or military officer would be removed under similar circumstances. Corporate life is an arena of private behavior and corporate positions do not proceed from popular elections. Personnel decisions in the boardroom are of no broad constitutional consequence. Military officers likewise are not chosen by the voters. The corporate and military analogies

cannot justify overturning a presidential election.

Yet, while overturning an election is the most severe constitutional sanction in our democracy, this President has chosen to conduct himself in such a manner as to run the risk that the U.S. Senate reasonably could conclude that he has committed "high Crimes and Misdemeanors." That is not the conclusion I ultimately reach. But at least with regard to one of the charges in Article II, the President came perilously close to committing an impeachable offense. Even without his removal, this is a tragic occurrence in our nation's history and a personal disappointment to me as one who holds the abilities and many of the accomplishments of this President in high esteem.

This impeachment process has led members of the Senate to consult the relatively scant history of American impeachments. Much of the history relates to the impeachment of federal judges, and this was of some limited relevance to these proceedings. Of the greatest relevance, however, are the histories of the impeachment and acquittal of Andrew Johnson in 1868, and the virtual impeachment and conviction of President Nixon, who resigned in the face of near certain removal in 1974.

Based on my reading and study, the actions of President Clinton lie somewhere between the conduct of the presidents in the Johnson and Nixon episodes. The general historical view appears to be that the case against President Johnson lacked a credible basis for removal, the primary accusation being that President Johnson removed a cabinet secretary from office in circumvention of the law. President Johnson disputed the constitutionality of the statute he was alleged to have violated, and apparently had a good basis for that view. The United States Supreme Court ultimately struck down a similar statute as unconstitutional. *Myers v. United States*, 272 U.S. 52 (1926). Johnson argued that he was the victim of a partisan Congress, determined to punish him for his policies. History has adopted that view. The President's defenders point to the Johnson case and they argue that the impeachment of President Clinton is the same sort of partisan exercise, unfounded in fact or law.

The President's accusers point to the case of President Nixon. In contrast to the relatively weak case against President Johnson, most regard President Nixon's actions in covering up his and others' efforts to interfere with the 1972 presidential election to be a classic example of the type of conduct that the framers sought to discourage with the "high Crimes and Misdemeanors" provision. President Nixon's misdeeds almost certainly would have led to his impeachment and conviction if he had not resigned. His alleged crimes were clearly committed in the course of his public duties, subverting the Constitution, compromising the integrity of the processes of government, and using agents of the government for illegal political purposes. The President's accusers argue that the same is true of President Clinton.

With all due respect to historians and constitutional scholars who may know more or feel differently, it is my sense that the case against President Clinton is the first close or "hard" case of presidential impeachment in our nation's long history. This case lies in the middle. It is a hard case and senators may see it either way.

In the ordinary practice of law, there is a saying that "hard cases make bad law." Some people may invoke that phrase when they complain that the President has "gotten away with it." Others may invoke it with concern that we have somehow made it easier to impeach, if not convict, a president. I have tried to remember that adage as we

have made our procedural and evidentiary decisions along the way. Our actions in this trial and our decision today may hold even greater significance for our nation's constitutional structure than the past two presidential impeachments, as wrenching and important as each of those was in our nation's history and in its time. I hope, in the end, that this hard case has made good law.

II. ANALYSIS OF ALLEGED FEDERAL CRIMES

A. *Standard of proof*

In drafting the two Articles of Impeachment against President Clinton, the House of Representatives sought to portray certain conduct by the President as meeting the constitutional standard of "High Crimes and Misdemeanors." In the specific language employed by the House in the Articles, and in the forceful arguments advanced by the House Managers on the Senate floor, a strategic choice was made. A particular approach was adopted that the House Managers clearly believe puts their case in its strongest light. They could simply have recited and attempted to prove certain conduct by the President and then argued, independent of the strictures of modern criminal law, that the President had committed "High Crimes and Misdemeanors" as that term has been understood throughout this nation's constitutional history.

Perhaps to make the facts of the case more easily understandable, or perhaps because the conduct alone may lack the gravity to justify the removal from office of the President of the United States, the House Managers chose another course, laden with the opprobrium of the modern statutory federal criminal law. Rather than simply alleging a course of general presidential misconduct, they placed enormous reliance on their assertion that the President committed the serious federal crimes of perjury and obstruction of justice. Indeed, in his opening statement on January 15, House Manager McCollum stated quite directly:

"The first thing you have to determine is whether or not the President committed crimes. It is only if you determine he committed the crimes of perjury, obstruction of justice, and witness tampering that you will move to the question of whether he is removed from office. In fact, no one, none of us, would argue to you that the President should be removed from office unless you conclude that he committed the crimes that he is alleged to have committed."

The very names of these crimes connote in modern America the type of conduct that is hard to reconcile with the continuation in office of the chief law enforcement officer of this nation. The House Managers' strategy was clever. It had an emotional power deeply rooted in the nation's abhorrence of disrespect for the law. It also placed the triers of fact and law in the position of potentially having to justify a decision that the President committed these federal crimes, but that these particular instances of alleged perjury and obstruction of justice did not constitute "High Crimes and Misdemeanors" as intended by the Framers.

I see nothing inappropriate in this approach and, in some ways, it assisted me in organizing my thoughts about this case. An obligation, however, does attend the House Managers' decision to rely on proving that the President committed actual federal statutory crimes. That obligation relates to the standard of proof.

I cannot justify concluding that the President should be removed from office for committing these federal crimes unless the case is proved by the same standard of proof that any federal prosecutor would be required to meet in a federal criminal case. This stand-

ard requires that the President be shown to have committed one of the two crimes alleged "beyond a reasonable doubt," as that standard of proof is understood in our criminal justice system. The "beyond a reasonable doubt" standard is guaranteed to defendants in criminal cases by the due process clause of the Constitution. *Victor v. Nebraska*, 511 U.S. 1 (1994). To apply any lesser standard in this trial would be unfair not only to the President, but also to the tens of millions of Americans whose right to have the President finish his term could be overridden by a mere likelihood or possibility that he actually committed such serious crimes.

In other words, the House Managers are free to use the "sword" of the language of the federal criminal law but cannot simultaneously deprive the president of the "shield" that same criminal law provides any defendant by requiring the prosecution to prove its case by the highest standard of proof in our legal system.

B. *Perjury*

Article I charges the President with committing numerous acts of perjury in his Grand Jury testimony of August 17, 1998. To convict an individual of perjury under 18 U.S.C. § 1621 or § 1623, the prosecution in a criminal case must prove beyond a reasonable doubt that the defendant: (1) knowingly or willfully made a (2) false, (3) material declaration (4) under oath (5) in a proceeding before or ancillary to any court or grand jury of the United States. To be perjurious, the false statements must be knowingly or willfully false and material to the proceeding in which they are given. Literally true statements, even if misleading, are not perjurious. And if a witness honestly believes that his or her testimony is true at the time the testimony is given, it is not perjurious, even if it is later shown to have been false.

Before turning to the allegations of perjury in Article I, I must comment on the failure of the House to specify the perjurious statements on which it based its charge. The President's counsel made a convincing argument that if Article I were offered as an indictment in a criminal case, it would be dismissed out of hand for this failure. And despite being alerted to this deficiency in the President's answer and his opening trial memorandum, the House Managers steadfastly refused to be specific and complete in their discussion of the perjury charges, constantly referring to alleged acts of perjury as mere examples.

As a Senator who has tried to apply a thorough and impartial legal analysis to these charges, I have found this refusal to specify the alleged perjurious statements somewhat frustrating. Unfortunately, even at the conclusion of this trial, it is still very difficult to be sure of what the full list of alleged perjuries includes. Indeed, it is even difficult to be sure if the House Managers continue to rely on all of the charges they raised in their trial memorandum and opening presentation.

The House listed four "categories" of perjury before the Grand Jury. With respect to the first category, "the nature and details of his relationship with a subordinate Government employee," I find that some of the examples that the House Managers raised in their trial memorandum and in presenting their case in the trial are truly frivolous. The Grand Jury was investigating perjury and obstruction of justice in the civil case pursued by Paula Jones. Once the President admitted that his relationship with Monica Lewinsky included inappropriate sexual conduct, of what possible materiality to the Grand Jury's inquiry was the question of how many times such conduct occurred?

The testimony of the President concerning whether he engaged in conduct with Ms.

Lewinsky that would have been considered "sexual relations" as that term was defined in the Jones case is the one instance of testimony in this category cited by the House Managers that was clearly material to the Grand Jury's investigation of possible perjury in the deposition. As to the specific facts at issue, we still have only the conflicting testimony of the two witnesses, Ms. Lewinsky and the President. While there are good common sense reasons to doubt the President's version of a wholly non-reciprocal sexual relationship, perjury has not been proven beyond a reasonable doubt. Even if we accept Ms. Lewinsky's version of what kind of touching occurred, the ultimate question of whether President Clinton's statements on this issue in the Grand Jury were actually false turns on the question of what his intent was in engaging in those particular acts with Ms. Lewinsky. I simply cannot say that there is no reasonable doubt on this point. Even Ms. Lewinsky stated in her deposition that the President's intent was something on which she did not feel comfortable commenting.

A second category of alleged perjury consists of statements by the President before the Grand Jury concerning his earlier testimony in the deposition in the Jones case. This is "bootstrapping." It is particularly troubling because the House of Representatives, and even one of the House Managers, rejected an Article of Impeachment that alleged that the President committed perjury in the Jones deposition. I reject the House Managers' argument that the President reaffirmed his entire Jones deposition before the Grand Jury and therefore should be found guilty of perjury in the Grand Jury if any of his deposition testimony was false. The basis for this breathtaking position, as laid out by House Manager Rogan in response to Senator Nickles' question, is the statement made by the President in response to a question from the Independent Counsel concerning what the oath he swore to tell the truth in the Jones deposition meant to him. He said, "I believed then that I had to answer the questions truthfully, that's correct." In my mind, that was not a reaffirmation of his entire Jones deposition testimony sufficient to make any perjury in that deposition perjury "by reference" before the Grand Jury.

The President did state a few times in the Grand Jury that he intended to answer the Jones' lawyers questions in the deposition in a misleading but technically true manner, and House Manager McCollum highlighted a few of those statements in his closing argument concerning this category of perjury. For purposes of the charge of perjury before the Grand Jury in these statements, the key issue is not whether the President succeeded in negotiating the line between perjury and misleading but true testimony, but whether he intended to negotiate that line. Frankly, my reading of his testimony in the Jones deposition is that it was, in fact, his intent to tell the truth. In the Jones deposition, he was cagey and evasive, but he appeared to be trying mightily not to tell an out and out lie. Even though he may very well have crossed the line on a number of occasions, I have to find that there is reasonable doubt that the President was committing perjury in the Grand Jury when he said that his intent was to testify truthfully in the Jones deposition.

The third part of Article I deserves only brief mention. It boils down to the charge that the President lied when he said he wasn't paying attention when his lawyer offered Monica Lewinsky's affidavit in the Jones deposition and argued that it meant that "there is absolutely no sex of any kind, in any manner, shape, or form, with Presi-

dent Clinton." The only evidence that the House Managers offered to support their charge of perjury is the videotape of the deposition in which President Clinton is seen looking, we are told, in the direction of his lawyer when this conversation occurred. The House Managers tried to bolster this shockingly thin reed on which to base a perjury charge with a similarly inconclusive affidavit from a law clerk to Judge Susan Webber Wright. This is perhaps the weakest of the many inferences about the President's state of mind that the House Managers urge us to accept in order to convict. I am virtually certain that a perjury charge based on this kind of evidence would not be pursued by a federal prosecutor, and absolutely certain that a jury would not find guilt on such a charge beyond a reasonable doubt. I certainly cannot.

The fourth and final part of Article I alleges that the President committed perjury when he testified in the Grand Jury concerning "his corrupt efforts to influence the testimony of witnesses and to impede the discovery of evidence" in the Jones case. This presumably refers to the President's statements to the Grand Jury concerning the gift exchange and his conversations with Betty Currie and other aides after his Jones deposition. With respect to the President's testimony about the gifts, I find it significant that Monica Lewinsky revealed for the first time in her Senate deposition that she had told the FBI shortly after the President's deposition that one of his statements about the gifts "sounded familiar." Her Senate deposition was the first time that anyone learned about that FBI interview. Surely this was "exculpatory information" that the Independent Counsel and the House Managers had the responsibility to disclose to the President's counsel and bring to our attention.

The President denied that he instructed Betty Currie to pick up the gifts from Monica Lewinsky. By charging the President with perjury for that statement, the House Managers have essentially tried to convert their obstruction charge into a perjury charge. But there is an unresolved conflict of testimony on the issue of who initiated the hiding of the gifts. As I will explain later, that conflict raises reasonable doubt in my mind about that portion of the obstruction charge. It is similarly dispositive of the perjury charge, which essentially amounts to a claim that the President lied when he said he did not obstruct justice by urging Betty Currie to pick up the gifts.

The President stated in the Grand Jury that in his conversations with aides after his deposition in the Jones case he attempted to be literally truthful, but misleading, in order to conceal his affair with Ms. Lewinsky. The questioning here by the Independent Counsel was far too general to support a perjury conviction for his statement in the Grand Jury that he "said things that were true" to his aides. He certainly said many things that were true to his aides, and he told some lies. The clear import of his testimony was that he was trying to conceal his relationship with Ms. Lewinsky from his aides while being generally truthful to them. I do not believe that the President willfully or knowingly lied when he said this to the Grand Jury, nor do I believe that these statements were material to the Grand Jury's inquiry, since he was never asked about and he never denied making specific statements to his aides that were not true.

As I will discuss later with respect to Article II, the President's conversations with Betty Currie give me the most pause and cause me the most concern in this whole matter. While it may be hard to believe the President's explanation in the Grand Jury

that he was "trying to figure out what the facts were," his intent in having the oblique and tortured conversation with Ms. Currie is not clear enough to find beyond a reasonable doubt that he committed perjury in the Grand Jury when he discussed that conversation.

In sum, I do not believe that the House Managers have proved the elements of perjury beyond a reasonable doubt. But I also must say that even if one or two of these charges did meet that test, I would have some skepticism about Article I. It was a highly unusual situation that led to the President's appearance before the Grand Jury. Targets of criminal investigations are almost never subpoenaed to testify in the Grand Jury, and when they are subpoenaed, they invariably invoke their Fifth Amendment rights. Here, of course, the President did not invoke his right against self-incrimination but instead answered questions about the charges against him. And now he faces charges that he committed perjury when he denied committing the crimes of perjury in the deposition and obstruction of justice that the Grand Jury was investigating. I am uncomfortable with these prosecutorial tactics, which come very close, it seems to me, to using the Grand Jury not only to investigate potential crimes but to trap the President into committing them.

C. Obstruction of justice

In Article II, the House charged President Clinton with obstruction of justice and witness tampering. Once again, to successfully convict defendants in criminal cases of these charges, prosecutors must prove each of the elements of the crime beyond a reasonable doubt. And that is the standard I believe is most appropriate here.

In the case of obstruction, the elements of a violation of 18 U.S.C. § 1503 are that: (1) a judicial proceeding was pending; (2) the defendant knew it was pending; and (3) the defendant corruptly endeavored to influence, obstruct, or impede the due administration of justice in the proceeding. The courts have indicated that the requirement that the defendant "corruptly endeavor to influence" provides the element of intent in this crime. To "corruptly endeavor to influence" is to act voluntarily and deliberately with the purpose of improperly influencing or obstructing the administration of justice.

Witness tampering under 18 U.S.C. § 1512 requires proof that the defendant (1) corruptly persuaded or attempted to do so or engaged in misleading conduct toward another person (2) with intent (a) to influence or prevent that person's testimony in an official proceeding; or (b) to cause or induce any person to withhold testimony or physical evidence from an official proceeding.

The charges against the President in Article II have been referred to by the House Managers as the "seven pillars of obstruction." Some of these charges are more easily interpreted as allegations that the federal witness tampering statute has been violated. In any event, the crucial disputed element in all the charges against the President is intent to influence or obstruct the proceeding. The House Managers made little effort to distinguish between the two criminal statutes, which both include that element. Indeed, if the intent element of these crimes were proven, some of the alleged improper conduct of the President could fall under both statutes, which is one reason I have referred to the case against the President as a close one, with regard to Article II.

The House Managers have regularly urged the Senate to look at the entirety of the charges against the President and not to pick apart the individual allegations. I think the more appropriate analysis, however, is to

look at each allegation and determine if the elements of obstruction are proven beyond a reasonable doubt. In many cases, the House Managers seem to take the position that the intent to obstruct or influence can be inferred from a pattern of behavior. But each allegation cannot be considered part of a "pattern of obstruction" unless it meets the elements of obstruction (or witness tampering) on its own. Otherwise, Article II become a series of "bootstraps," which are alleged to add up to obstruction of justice without any specific action actually constituting a violation of federal law.

Nonetheless, there is no question in my mind that Article II is the more serious of the two articles of impeachment, because the factual allegations are more troubling and because it charges conduct that involved a number of individuals, in and out of government, other than the President. If the allegations are true, this conduct would undermine respect for the rule of law and injure our system of justice even more deeply than perjury, which, of course, is a serious violation as well. Because I took these charges very seriously, I wanted to give the House Managers every reasonable opportunity to prove them. I supported the issuance of subpoenas to witnesses for depositions and the presentation of the witnesses' testimony to the Senate because I wanted to be very clear in my own mind about what had taken place before deciding whether to acquit or convict on this particular article.

The first two obstruction charges against the President arise out of his late night telephone conversation with Monica Lewinsky on December 17, 1997. The House Managers charge that during that call the President encouraged Ms. Lewinsky to file a false affidavit and to lie if called upon to testify in the Jones case. While I may agree with House Manager Graham that a telephone call at the hour of 2:30 a.m. is not likely to be a casual call, the burden on the House Managers is to prove that the President committed a crime during the call, not merely to invite an inference that he was "up to no good." And the direct evidence—testimony from Ms. Lewinsky—does not support the Managers' theory. She testified repeatedly that she never, "ever" discussed the contents of her affidavit with the President. In addition, according to Ms. Lewinsky, the discussion of "cover stories" in the December 17 phone call was not in connection with her possible affidavit or testimony in the Jones case.

There simply is not enough evidence that the President intended to influence Ms. Lewinsky's affidavit or testimony to find that the law was broken. According to Ms. Lewinsky, they discussed the possibility of her filing an affidavit in order to avoid testifying, but did not discuss the details of that affidavit. She testified that she thought the contents of affidavit could include a "range of things," running from the innocuous to the deceitful. Indeed, the main evidence offered by the House Managers seems to be that the President and Ms. Lewinsky over the period of the relationship developed "cover stories" and planned to conceal their affair. The House Managers suggest that we must infer from the mention of these cover stories during the December 17 conversation a signal to Ms. Lewinsky that they should be employed in the affidavit or in Ms. Lewinsky's testimony if she were called.

The "cover stories" had been developed over a year earlier. The House Managers argue that they were transformed into obstruction of justice and witness tampering when Ms. Lewinsky became a witness in the Jones case by their mere mention in the telephone conversation of December 17. That is an interesting theory, but evidence of the

President's intent to obstruct justice in that conversation is simply lacking. I do not believe a federal criminal prosecution would ever be brought with such a slim factual foundation, notwithstanding the earnest statements to the contrary by a number of the House Managers who are former prosecutors.

Another allegation refuted by the depositions taken by the House Managers was the charge based on the efforts of Vernon Jordan to secure Monica Lewinsky a job. Jordan admitted that he sought a job for Ms. Lewinsky at the request of the President. However disturbing the conduct and whatever innuendo it invites, it was not against the law for the President to seek to aid a woman with whom he had carried on an illicit relationship. It only amounts to obstruction of justice or witness tampering if it is proven that the job assistance was offered with the intent of preventing her from testifying or influencing her testimony in the Jones case. Numerous facts cut against this allegation: (1) the President's efforts to help Ms. Lewinsky find a job started long before she was a witness in the Jones case; (2) Vernon Jordan's intensified efforts predated by at least a week his knowledge that she had been subpoenaed; (3) both Ms. Lewinsky and Mr. Jordan testified that they thought that the job search and the submission of Ms. Lewinsky's affidavit were not connected.

Vernon Jordan's role in this whole story is nonetheless troubling. It is clear he made extraordinary efforts to help Ms. Lewinsky obtain employment, and he kept the President informed of his progress. But I cannot conclude beyond a reasonable doubt that his efforts must be attributed to a plan on the part of the President to prevent Ms. Lewinsky from testifying truthfully in the Jones case. Just as plausible is that the President's motive to help Ms. Lewinsky was loyalty or guilt, or to make it less likely that she would reveal the relationship, which had long since ceased to be sexual, to one of her friends or the press.

Another charge in Article II deals with the President's failure to prevent his lawyer from relying on Ms. Lewinsky's misleading affidavit during the Jones deposition. But evidence of the President's intent to obstruct justice is completely lacking here. As a witness in a deposition, the President did not have a duty to monitor his lawyer's statements. One can only imagine what the President was thinking about as he listened to the lawyers and Judge Wright debate whether he was going to have to answer questions about his relationship with Ms. Lewinsky.

Before turning to the most serious allegations of obstruction and witness tampering, let me comment on the final charge in Article II, which concerns the President's statements to aides who later were called before the Grand Jury to testify. This charge has been a sideshow and a distraction from the beginning. While the charge is listed in Article II as one of the "means used to implement" the "course of conduct or scheme designed to delay, impede, cover up, and conceal the existence of evidence and testimony" in the Jones case, it actually alleges an effort to obstruct the Grand Jury investigation. Furthermore, it assumes that in the days when the Lewinsky story was breaking, the President's conversations with his aides were aimed at influencing their eventual testimony in the Grand Jury, rather than dealing with the public firestorm that was enveloping the White House and the enormous personal embarrassment and humiliation that the President faced as his affair became public.

There is much for the Congress and the nation to criticize about the President's behav-

ior in this matter. Concealing the truth and the intimate details of this relationship from his close aides ranks well down on the list for me. I am much more outraged by his very public, very forceful denial of the affair to the American people on national television. Yet that denial does not appear to be part of a scheme to obstruct the Grand Jury. And the fact that the President's more elaborate lie about the nature of his relationship with Ms. Lewinsky in his conversation with Sidney Blumenthal found its way into press accounts is essentially irrelevant to the question of whether the President committed a crime. Yet the House Managers spent hours and hours trying to substantiate their claim that there was a White House effort, masterminded by the President, to discredit and attack Ms. Lewinsky. They even called Sidney Blumenthal as a witness and explored this issue in depth with him. Then, on the day our deliberations started, they sought to introduce new evidence and take new depositions because they believe that Mr. Blumenthal was untruthful in his deposition.

After all this, the House Managers still have not explained what crime is lurking in the conspiracy they think they have found. The President cannot be impeached and removed from office for being a "bully," or being "mean," or because his Administration has a muscular spin operation. On this charge, not only is there a reasonable doubt that the President intended to obstruct justice when he misled his aides about his relationship with Ms. Lewinsky, there is no evidence at all that he did.

Let me turn to the two charges of Article II that I view as the most serious and substantial—the concealment of gifts given by the President to Ms. Lewinsky and the President's two conversations with his personal secretary, Betty Currie, after he was deposed in the Jones case.

It is significant that both of these allegations involve Ms. Currie. And the gift concealment allegation raises what is probably the most serious factual dispute in this case—the question of whether it was Ms. Lewinsky or Ms. Currie who suggested hiding the gifts. Yet even when given the opportunity to call a limited number of witnesses for depositions, the House Managers chose not to call Betty Currie. I was troubled by this at the time, particularly since the testimony of Sidney Blumenthal seemed so tangential to the case. Other than Monica Lewinsky, Betty Currie was the most important witness in this case, and the House Managers chose not to depose her.

While I was inclined to give the House Managers the benefit of the doubt on their witness selection, I am prohibited from giving them the benefit of the doubt on whose testimony to believe on key disputes of fact. Without seeing Ms. Currie testify, I have no basis on which to compare her credibility to that of Ms. Lewinsky on the issue of who initiated the hiding of the gifts. Furthermore, Ms. Lewinsky testified that she was concerned about the Jones lawyers' request for the gifts long before her December 28 meeting with the President and her delivery of the gifts to Ms. Currie later that day.

I was struck by Ms. Lewinsky's testimony on this point in her Senate deposition. She seemed indefinite when she reaffirmed her earlier testimony that Betty Currie had called her about the gifts, rather than vice versa. In this instance, I appreciated the opportunity to view Ms. Lewinsky's demeanor when she testified. She seemed significantly less certain about who raised the idea of hiding the gifts. I certainly do not conclude that she was lying, but her memory of the sequence of events did not seem as clear on this point as it was on many of the issues discussed in the deposition. The fact that the

President gave Ms. Lewinsky even more gifts on December 28 lends additional weight to the theory that it was Ms. Lewinsky who wanted to hide the gifts, not the President.

With an unresolved direct conflict between the testimony of the two primary witnesses on this allegation, I simply cannot find beyond a reasonable doubt that the President masterminded the gift exchange to obstruct the Jones case.

Finally, we come to what for me has been the most difficult charge of Article II—the President's alleged "coaching" of Betty Currie. Neither the President's testimony in the Grand Jury concerning these conversations nor his lawyers' valiant efforts to explain them were wholly convincing. For the President to call his secretary into the Oval Office on a Sunday—the day after his deposition in the Jones case—and feed her a number of falsehoods about his relationship with Ms. Lewinsky is very alarming.

The central issue, however, is the President's intent. Knowing that the secret of his relationship with Lewinsky was out, but not yet knowing who had told the Jones lawyers about it, the President could very well have been concerned mostly about public exposure and what his wife would soon learn. He knew that Betty Currie was aware of his friendship with Ms. Lewinsky, but he did not know how much she knew or had surmised about what went on behind closed doors. Since all of that activity had ended quite a long time before, it is not inconceivable that the President was trying to find out what Ms. Currie knew or even influence what Ms. Currie would say to other White House staff, without being specifically concerned with her being a witness in the Jones case.

It is worth noting here that I am unconvinced by the argument frequently made by the House Managers that Monica Lewinsky was a crucial witness in the Jones case whose testimony might have changed the course of that litigation. Despite the fact that Monica Lewinsky was at one time a White House intern and later a White House employee, there is no allegation of sexual harassment in the relationship, and Ms. Lewinsky consistently characterized her interaction with the President as affectionate and consensual.

The Jones case later was dismissed on legal grounds that were wholly unrelated to any issue on which Ms. Lewinsky could have shed light. Thus, it is my view that the President hoped that Ms. Lewinsky would not have to testify in the Jones case because he did not want their affair to become public, not because he was concerned about the impact of her testimony on Paula Jones' claims. When he called Ms. Currie into his office on January 18, he knew that someone had told the Jones lawyers about Monica Lewinsky. In that context, it is at least plausible that he was concerned about the imminent explosion of press attention and the political damage that would result from it, rather than his legal situation.

Whatever our suspicions about the President's intentions in his conversations with Ms. Currie, the available evidence does not entitle us to a convincing inference about his state of mind that would support a finding of guilt. Therefore, although I still have concerns about this allegation of witness tampering, and I believe it was a serious charge to which the President's defense was weak, I do not believe that the House Managers have carried their burden to show beyond a reasonable doubt that the President's intent was to obstruct justice in the Jones case. I cannot reach this conclusion, however, without expressing my deepest concern and sadness that I am able to say only that the President apparently just barely avoided committing the crime of obstruction of justice in his conversations with Betty Currie.

III. HIGH CRIMES AND MISDEMEANORS

Many Senators chose to reach the issue of the "impeachability" of the offenses charged against the President as a threshold question of law prior to hearing the House Managers' full case. Many voted for Senator BYRD's motion to dismiss on this basis. For two reasons, I believed it was appropriate to allow the facts of the case to be more fully presented and put into evidence before making a legal judgment.

First, I believed that as a matter of deference and respect for the constitutional role of the House of Representatives, the case, including evidence, should be presented before the Senate reached a judgment. The Constitution gives the House the sole power of impeachment, and a determination of whether certain offenses constitute "Treason, Bribery, or other high Crimes and Misdemeanors" is necessarily a part of the House's decision to impeach a president. While the Senate's exclusive power to try, convict, and remove a president makes it the final arbiter of whether the conduct alleged is "impeachable," I believe it is incumbent on the Senate to permit the House Managers a reasonable opportunity to set out their case against the President before making a decision on that question. Whatever misgivings I may have about the way the House exercised its constitutional power to impeach in this instance, I felt compelled to permit the House Managers a reasonable opportunity to make their case before I would exercise my role as both a trier of fact and a judge of law.

Second, the historical and legal authorities on the question of what constitutes "other high Crimes and Misdemeanors" are varied and not wholly consistent. I believed that I could apply those authorities with more certainty to a clear and complete set of facts, after hearing the evidence, than to a set of allegations that might never be proved. I recognize that when courts entertain motions to dismiss in civil cases, they assume that all facts alleged in a complaint are true and determine the scope and impact of the particular statute or legal doctrine on which the claim for relief is based. But in this case, I felt more comfortable reaching the legal question of "impeachability" after hearing the evidence. I was comfortable allowing this limited deference to the prerogatives of the House Managers in the interest of a thorough and constitutional process.

Having decided that the House Managers failed to prove that the President committed the federal crimes they alleged, the question remains whether the underlying acts themselves, whether criminal or not, constitute conduct that under the Constitution constitute "high Crimes and Misdemeanors" that should result in the President's removal from office. On the issue of what constitutes "high Crimes and Misdemeanors," as in many other issues in this impeachment and trial, there has been heated and polarizing rhetoric. The House Managers and their supporters argued vigorously that the criminal acts they charged were, on their face, high crimes. White House counsel and many historians and legal scholars argued the contrary, that these acts could in no way be considered high crimes.

Other than bribery and treason, the Constitution itself gives no exhaustive or exclusive list of those offenses for which presidents should be removed from office. We are given only the phrase "other high Crimes and Misdemeanors" for guidance. The key to understanding the meaning of this phrase in my view are the words "other" and "high."

As University of Chicago Law School Professor Joseph Isenbergh has written:

"* * * without the word 'high' attached to it, the expression 'crimes and misdemeanors'

is nothing more than a description of public wrongs, offenses that are cognizable in some court of criminal jurisdiction."

Isenbergh notes that in the 18th Century, the word "high" when attached to the word "crime" or "misdemeanor," described a crime aiming at the state or the sovereign rather than a private person, and thus a "high Crime or Misdemeanor" was not simply a serious crime, but one aimed at the highest powers of the state. This concept had been asserted by William Blackstone and others, and was well understood by the Framers of the Constitution.

Indeed, Alexander Hamilton wrote in *Federalist* Paper No. 65 that the crimes to be considered in a court of impeachment are:

"[T]hose offenses which proceed from the misconduct of public men, or in other words from the abuse or violation of some public trust. They are of a nature which may with particular propriety be denominated POLITICAL, as they relate chiefly to injuries done immediately to the society itself."

Writing at the time of the Nixon impeachment, Yale University Law Professor Charles Black commented that the crimes enumerated in the Constitution, treason and bribery, are crimes that "so seriously threaten the order of political society as to make pestilent and dangerous the continuance in power of their perpetrator." In my view, "other high Crimes and Misdemeanors" must be interpreted as crimes or acts of a similar gravity and impact on society as those enumerated crimes.

To determine whether the conduct that led to impeachment for these crimes meets the definition of a high crime, the underlying circumstances must govern and a determination must be made if the offense, in Black's words, "threatens the order of political society." While it is certainly true that an act need not be criminal in a technical sense to constitute a threat to the well-being of the State, the acts in this case were not assaults on the State or the liberties of the people that threaten the order of political society, as contemplated by the Framers. This conduct does not justify overturning the will of the people as expressed in the 1996 election.

IV. CONCLUSION

As I listened carefully to the trial proceedings over the past month, I was impressed with the efforts of counsel for both sides in making their cases. Even understanding the role of counsel as advocates, however, I was troubled by the exaggerated claims with regard to the strength of each side of the case.

The House Managers referred to the evidence in support of removal as "overwhelming," while the President's counsel described the House Managers' evidence as "nonexistent." I find neither statement to be true and maybe a little reminiscent of the heated words of the Senator Charles Sumner of Massachusetts in his Opinion following the impeachment trial of President Andrew Johnson:

"In the judgment which I now deliver I cannot hesitate. To my vision the path is clear as day. Never in history was there a great case more free from all just doubt. If Andrew Johnson is not guilty, then never was a political offender guilty before; and, if his acquittal is taken as a precedent, never can a political offender be found guilty again. The proofs are mountainous. Therefore, you are now determining whether impeachment shall continue a beneficent remedy in the Constitution, or be blotted out forever, and the country handed over to the terrible process of revolution as its sole protection."

I cannot view the Clinton impeachment case from either extreme. This, unfortunately, was a close case that raised the very

real specter of the nullification of an American presidential election. It is, however, at such a moment, when the high standard for impeachment and conviction becomes especially important.

The reason I describe the decision of the American people to elect a president as the most salient fact in this case is not simply because it is the right of the American people to choose their president. It is also because of the constitutional goal of our Founding Fathers to create a system of political stability. Just as the Framers wished to avoid the uncertainty of a parliamentary system, we today in this last year of the twentieth century should be concerned about political instability and the threat that excessive partisanship poses to our constitutional order.

I see the four year elected term of our president as a unifying force in our country. Yet this is the second time in my adult life that a President of the United States has undergone a serious impeachment process. And I am only 45 years old. In the nearly two hundred years prior to the case of President Nixon, this happened only once.

Are these two recent impeachments a fluke? Is it coincidence that two of our recent presidents were thought by some to be sufficiently unfit to be president to warrant this procedure? I wonder how we will feel about the stability of our system if another presidential impeachment occurs sometime in the next ten or twenty years.

I see a danger in this. I see a danger in this in an increasingly diverse country. I see a danger in this in an increasingly divided country. I see a danger when national elections seem never to be over. I see a danger when the lead House Manager in his concluding remarks in this trial asserts that we are engaged in a "culture war" in this country. I hope that is not where we are, and I hope that is not where we are heading.

In making a decision of this magnitude, it is best not to err at all. If we must err, however, we should err on the side of avoiding such divisions, and of respecting the will of the people. Senator James W. Grimes of Iowa, one of the seven Republicans who voted to acquit President Andrew Johnson in 1868, said in his Opinion at the conclusion of the trial:

"I cannot agree to destroy the harmonious working of the Constitution for the sake of getting rid of an unacceptable President. Whatever may be my opinion of the incumbent, I cannot consent to trifle with the high office he holds. I can do nothing which, by implication, may be construed into an approval of impeachment as a part of future political machinery."

Spoken almost 131 years ago, these words express nearly perfectly my sentiments on the grave constitutional questions I was required to address in this case.

MEASURES REFERRED

The following bills, previously received from the House of Representatives for the concurrence of the Senate, were read the first and second times by unanimous consent and referred as indicated:

H.R. 68. An act to amend section 20 of the Small Business Act and make technical corrections in title III of the Small Business Investment Act; to the Committee on Small Business.

H.R. 98. An act to amend chapter 443 of title 49, United States Code, to extend the aviation war risk insurance program and to amend the Centennial of Flight Commemoration Act to make technical and other cor-

rections; to the Committee on Governmental Affairs.

H.R. 169. An act to amend the Packers and Stockyards Act, 1921, to expand the pilot investigation or the collection of information regarding prices paid for the procurement of cattle and sheep for slaughter of muscle cuts of beef and lamb to include swine and muscle cuts of swine; to the Committee on Agriculture, Nutrition, and Forestry.

H.R. 391. An act to amend chapter 35 of title 44, United States Code, for the purposes of facilitating compliance by small business with certain Federal paperwork requirements, to establish a task force to examine the feasibility of streamlining paperwork requirements applicable to small business, and for other purposes; to the Committee on Governmental Affairs.

H.R. 432. An act to designate the North/South Center as the Dante B. Fascell North-South Center; to the Committee on Foreign Relations.

H.R. 437. An act to provide for a Chief Financial Officer in the Executive Office of the President; to the Committee on Governmental Affairs.

H.R. 439. An act to amend chapter 35 of title 44, United States Code, popularly known as the Paperwork Reduction Act, to minimize the burden of Federal paperwork demands upon small business, educational and nonprofit institutions, Federal contractors, State and local governments, and other persons through the sponsorship and use of alternative information technologies; to the Committee on Governmental Affairs.

H.R. 440. An act to make technical corrections to the Microloan Program; to the Committee on Small Business.

MEASURE PLACED ON THE CALENDAR

The following bill was read twice and placed on the calendar:

H.R. 435. An act to make miscellaneous and technical changes to various trade laws, and for other purposes.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-1748. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. ACT 12-539, "Motor Vehicle Parking Regulation Temporary Amendment Act of 1998"; to the Committee on Governmental Affairs.

EC-1749. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. ACT 12-553, "Child Abuse and Neglect Prevention Children's Trust Fund Amendment Act of 1998"; to the Committee on Governmental Affairs.

EC-1750. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. ACT 12-561, "Drug Prevention and Children at Risk Tax Check Off, Tax Initiative Delay, and Attorney License Fee Act of 1998"; to the Committee on Governmental Affairs.

EC-1751. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. ACT 12-559, "Harris/Hinton Place and Bishop Samuel Kelsey Way Designation Act

of 1998"; to the Committee on Governmental Affairs.

EC-1752. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. ACT 12-558, "Schedule of Heights of Buildings Amendment Act of 1998"; to the Committee on Governmental Affairs.

EC-1753. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. ACT 12-573, "Self-Sufficiency Promotion Amendment Act of 1998"; to the Committee on Governmental Affairs.

EC-1754. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. ACT 12-568, "Fiscal Year 1999 Disability Compensation Administrative Financing Temporary Amendment Act of 1998"; to the Committee on Governmental Affairs.

EC-1755. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. ACT 12-567, "Health-Care Facility Unlicensed Personnel Criminal Background Check Act of 1998"; to the Committee on Governmental Affairs.

EC-1756. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. ACT 12-563, "Lowell School, Inc., Real Property Tax Relief Temporary Act of 1998"; to the Committee on Governmental Affairs.

EC-1757. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. ACT 12-582, "Homestead Housing Preservation Temporary Amendment Act of 1998"; to the Committee on Governmental Affairs.

EC-1758. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. ACT 12-581, "Year 2000 Government Computer Immunity Act of 1998"; to the Committee on Governmental Affairs.

EC-1759. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. ACT 12-577, "Procurement Practices Bid Notice Period Amendment Act of 1998"; to the Committee on Governmental Affairs.

EC-1760. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. ACT 12-575, "Human Rights Amendment Act of 1998"; to the Committee on Governmental Affairs.

EC-1761. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. ACT 12-587, "Compensation Increase for the Chairperson of the Rental Housing Commission Amendment Act of 1998"; to the Committee on Governmental Affairs.

EC-1762. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. ACT 12-586, "Sex Offender Registration Risk Assessment Clarification Amendment Act of 1998"; to the Committee on Governmental Affairs.

EC-1763. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. ACT 12-584, "Housing Finance Agency Amendment Act of 1998"; to the Committee on Governmental Affairs.

EC-1764. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. ACT 12-583, "Community Development Program Temporary Amendment Act of 1998"; to the Committee on Governmental Affairs.

EC-1765. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. ACT 12-593, "Hazardous Duty Compensation for Metropolitan Police Department Scuba Divers Amendment Act of 1998"; to the Committee on Governmental Affairs.

EC-1766. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. ACT 12-591, "Dedication and Designation of Harry Thomas Way Temporary Act of 1998"; to the Committee on Governmental Affairs.

EC-1767. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. ACT 12-589, "Sex Offender Registration Immunity From Liability Amendment Act of 1998"; to the Committee on Governmental Affairs.

EC-1768. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. ACT 12-588, "Mentally Retarded Citizens Substituted Consent for Health Care Decisions and Emergency Care Definition Temporary Amendment Act of 1998"; to the Committee on Governmental Affairs.

EC-1769. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. ACT 12-606, "Reorganization Plan No. 5 for the Department of Human Services and Department of Corrections Act of 1998"; to the Committee on Governmental Affairs.

EC-1770. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. ACT 12-603, "Child Development Home Promotion Amendment Act of 1998"; to the Committee on Governmental Affairs.

EC-1771. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. ACT 12-602, "Food Stamp Trafficking and Public Assistance Fraud Control Amendment Act of 1998"; to the Committee on Governmental Affairs.

EC-1772. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. ACT 12-601, "Retired Police Officer Redeployment Amendment Act of 1998"; to the Committee on Governmental Affairs.

EC-1773. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. ACT 12-612, "Legal Service Establishment Amendment Act of 1998"; to the Committee on Governmental Affairs.

EC-1774. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. ACT 12-611, "Home Purchase Assistance Fund Amendment Act of 1998"; to the Committee on Governmental Affairs.

EC-1775. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. ACT 12-610, "Home and Community Juvenile Probation Supervision Act of 1998"; to the Committee on Governmental Affairs.

EC-1776. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. ACT 12-608, "Criminal Records Check for the Protection of Children Act of 1998"; to the Committee on Governmental Affairs.

EC-1777. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. ACT 12-615, "Second Omnibus Regulatory Reform Amendment Act of 1998"; to the Committee on Governmental Affairs.

EC-1778. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report

on D.C. ACT 12-613, "Metropolitan Police Department Civilianization Amendment Act of 1998"; to the Committee on Governmental Affairs.

EC-1779. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. ACT 12-616, "Sex Offender Registration Immunity From Liability Second Temporary Amendment Act of 1998"; to the Committee on Governmental Affairs.

EC-1780. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. ACT 12-622, "Confirmation Amendment Act of 1998"; to the Committee on Governmental Affairs.

EC-1781. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. ACT 12-625, "Residential Real Property Seller Disclosure, Funeral Services Date Change, and Public Service Commission Independent Procurement Authority Act of 1998"; to the Committee on Governmental Affairs.

EC-1782. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. ACT 12-626, "Technical Amendments Act of 1998"; to the Committee on Governmental Affairs.

EC-1783. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. ACT 12-571, "Workers Compensation Amendment Act of 1998"; to the Committee on Governmental Affairs.

EC-1784. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a cumulative report on rescissions and deferrals dated February 9, 1999; transmitted jointly, pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, to the Committee on Appropriations, to the Committee on the Budget, to the Committee on Energy and Natural Resources and to the Committee on Foreign Relations.

EC-1785. A communication from the Secretary of Education, transmitting, pursuant to law, the annual report on surplus Federal real property disposed of to educational institutions in fiscal year 1998; to the Committee on Governmental Affairs.

EC-1786. A communication from the Director of Communications and Legislative Affairs, U.S. Equal Employment Opportunity Commission, transmitting, pursuant to law, the Commission's annual report under the Government in the Sunshine Act for calendar year 1998; to the Committee on Governmental Affairs.

EC-1787. A communication from the Senior Vice President and Chief Financial Officer, Potomac Electric Power Company, transmitting, pursuant to law, a copy of the Company's Balance Sheet as of December 31, 1998; to the Committee on Governmental Affairs.

EC-1788. A communication from the Director of the Office of Government Ethics, transmitting, pursuant to law, the report of a rule entitled "Post-Employment Conflict of Interest Restrictions; Revision of Departmental Component Designations" (RIN3209-AA07) received on February 1, 1999; to the Committee on Governmental Affairs.

EC-1789. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report on General Accounting Office employees detailed to congressional committees as of January 22, 1999; to the Committee on Governmental Affairs.

EC-1790. A communication from the Executive Secretary of the National Labor Relations Board, transmitting, pursuant to law,

the Board's annual report under the Government in the Sunshine Act for calendar year 1998; to the Committee on Governmental Affairs.

EC-1791. A communication from the Chief Judge of the Superior Court of the District of Columbia, transmitting, pursuant to law, an amendment to the "Jury Plan for the Superior Court of the District of Columbia"; to the Committee on Governmental Affairs.

EC-1792. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. ACT 12-416, "Eastern Market Real Property Asset Management and Outdoor Vending Act of 1998"; to the Committee on Governmental Affairs.

EC-1793. A communication from the Administrator of the Energy Information Administration, Department of Energy, transmitting, pursuant to law, the Department's report entitled "Performance Profiles of Major Energy Producers 1997"; to the Committee on Energy and Natural Resources.

EC-1794. A communication from the Chairman of the Federal Energy Regulatory Commission, transmitting, pursuant to law, the report of a rule entitled "Open Access Same-time Information; System and Standards of Conduct" (Docket RM95-9-003) received on February 10, 1999; to the Committee on Energy and Natural Resources.

EC-1795. A communication from the Chief Counsel of the Bureau of the Public Debt, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Regulations Governing Book-Entry Treasury Bonds, Notes and Bills" received on February 8, 1999; to the Committee on Finance.

EC-1796. A communication from the Fiscal Assistant Secretary, Department of the Treasury, transmitting, pursuant to law, the Highway Trust Fund quarterly report dated December 1998; to the Committee on Finance.

EC-1797. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Electronic Funds Transfer—Temporary Waiver of Failure to Deposit Penalty for Certain Taxpayers" (Notice 99-12) received on February 9, 1999; to the Committee on Finance.

EC-1798. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Examination of Returns and Claims for Refund, Credit, or Abatement; Determination of Correct Tax Liability" (Rev. Proc. 99-14) received on February 4, 1999; to the Committee on Finance.

EC-1799. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Changes in Accounting Periods and in Methods of Accounting" (Rev. Proc. 99-17) received on February 8, 1999; to the Committee on Finance.

EC-1800. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Low Income Housing Tax Credit—1999 Calendar Year Resident Population Estimates" (Notice 99-10) received on February 8, 1999; to the Committee on Finance.

EC-1801. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Roth IRAs" (RIN 1545-AW62) received on February 8, 1999; to the Committee on Finance.

EC-1802. A communication from the Chief of the Regulations Branch, U.S. Customs

Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Establishment of Port of Entry in Fort Myers, Florida" (T.D. 99-9) received on February 8, 1999; to the Committee on Finance.

EC-1803. A communication from the Chief of the Regulations Branch, U.S. Customs Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Foreign-Based Commercial Motor Vehicles in International Traffic" (RIN 1515-AB88) received on February 8, 1999; to the Committee on Finance.

EC-1804. A communication from the Chief of the Regulations Branch, U.S. Customs Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Automated Clearinghouse Credit" (RIN 1515-AC26) received on February 8, 1999; to the Committee on Finance.

EC-1805. A communication from the Chairman of the United States International Trade Commission, transmitting, pursuant to law, the Commission's Performance Plans for fiscal years 1999 and 2000; to the Committee on Finance.

EC-1806. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the Department's report on the implementation of the Prescription Drug User Fee Act of 1992 for fiscal year 1998; to the Committee on Health, Education, Labor, and Pensions.

EC-1807. A communication from the Secretary of Labor, transmitting, pursuant to law, the report of the Department's Advisory Council for Employee Welfare and Pension Benefit Plans for 1998; to the Committee on Health, Education, Labor, and Pensions.

EC-1808. A communication from the Assistant Secretary of Labor for Employment and Training, transmitting, pursuant to law, the report of a rule entitled "Unemployment Insurance Program Letter" (No. 13-99) received on February 10, 1999; to the Committee on Health, Education, Labor, and Pensions.

EC-1809. A communication from the Assistant General Counsel for Regulations, Department of Education, transmitting, pursuant to law, the report of a rule regarding international studies and foreign language programs received on February 10, 1999; to the Committee on Health, Education, Labor, and Pensions.

EC-1810. A communication from the Acting Assistant General Counsel for Regulations, Department of Education, transmitting, pursuant to law, the report of a rule entitled "Impact Aid" received on February 10, 1999; to the Committee on Health, Education, Labor, and Pensions.

EC-1811. A communication from the Deputy Director of the Regulations Policy and Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Indirect Food Additives: Polymers" (Docket 93F-0151) received on February 10, 1999; to the Committee on Health, Education, Labor, and Pensions.

EC-1812. A communication from the Deputy Executive Director and Chief Operating Officer of the Pension Benefit Guaranty Corporation, transmitting, pursuant to law, the report of a rule entitled "Allocation of Assets in Single-Employer Plans; Interest Assumptions for Valuing Benefits" received on February 8, 1999; to the Committee on Health, Education, Labor, and Pensions.

EC-1813. A communication from the Director of the Regulations Policy and Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Laxative Drug Products for Over-the-Counter Human Use" (RIN 0910-AA01) received on February 10, 1999; to the

Committee on Health, Education, Labor, and Pensions.

EC-1814. A communication from the Chairman and Chief Executive Officer, Farm Credit Administration, transmitting, pursuant to law, a report on the Administration's 1999 compensation program adjustments; to the Committee on Agriculture, Nutrition, and Forestry.

EC-1815. A communication from the Administrator of the Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Milk in the Nebraska-Western Iowa Marketing Area; Suspension of Certain Provisions of the Order" (Docket DA-98-10) received on February 10, 1999; to the Committee on Agriculture, Nutrition, and Forestry.

EC-1816. A communication from the Administrator of the Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Sweet Onions Grown in the Walla Walla Valley of Southeast Washington and Northeast Oregon; Order Amending Marketing Agreement and Order No. 956" (Docket 98AMA-FV-956-1) received on February 10, 1999; to the Committee on Agriculture, Nutrition, and Forestry.

EC-1817. A communication from the Administrator of the Grain Inspection, Packers and Stockyards Administration, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Fees for Federal Rice Inspection Services" (RIN0580-AA67) received on February 8, 1999; to the Committee on Agriculture, Nutrition, and Forestry.

EC-1818. A communication from the Administrator of the Farm Service Agency, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Small Hog Operation Payment Program" (RIN0560-AF70) received on February 8, 1999; to the Committee on Agriculture, Nutrition, and Forestry.

EC-1819. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Cinnamaldehyde; Exemption from the Requirement of a Tolerance" (FRL6049-9) received on February 10, 1999; to the Committee on Agriculture, Nutrition, and Forestry.

EC-1820. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Fenbuconazole; Reestablishment of Time-Limited Pesticide Tolerance" (FRL 6059-7) received on February 9, 1999; to the Committee on Agriculture, Nutrition, and Forestry.

EC-1821. A communication from the Alternate OSD Federal Register Liaison Officer, Department of Defense, transmitting, pursuant to law, the report of a rule entitled "Sale or Rental of Sexually Explicit Material on DoD Property" (RIN0790-AG66) received on February 10, 1999; to the Committee on Armed Services.

EC-1822. A communication from the Under Secretary of Defense for Acquisition and Technology, transmitting, pursuant to law, the Department's report on pilot programs for testing program manager performance of product support oversight responsibilities for the life cycle of acquisition programs; to the Committee on Armed Services.

EC-1823. A communication from the Under Secretary of Defense for Acquisition and Technology, transmitting, pursuant to law, the Department's report on funds expended during fiscal year 1998 for the performance of depot-level maintenance and repair by the public and private sectors; to the Committee on Armed Services.

EC-1824. A communication from the Federal Register Liaison Officer, Office of Thrift Supervision, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Consumer Credit Classified as a Loss, Slow Consumer Credit and Slow Loans" (RIN1550-AB28) received on February 3, 1999; to the Committee on Banking, Housing, and Urban Affairs.

EC-1825. A communication from the General Counsel of the Federal Emergency Management Agency, transmitting, pursuant to law, the report of a rule entitled "Final Flood Elevation Determinations" (64 FR 3046) received on February 10, 1999; to the Committee on Banking, Housing, and Urban Affairs.

EC-1826. A communication from the General Counsel of the Federal Emergency Management Agency, transmitting, pursuant to law, the report of a rule entitled "Final Flood Elevation Determinations" (64 FR 1523) received on February 10, 1999; to the Committee on Banking, Housing, and Urban Affairs.

EC-1827. A communication from the General Counsel of the Federal Emergency Management Agency, transmitting, pursuant to law, the report of a rule entitled "Changes in Flood Elevation Determinations" (Docket FEMA-7268) received on February 10, 1999; to the Committee on Banking, Housing, and Urban Affairs.

EC-1828. A communication from the General Counsel of the Federal Emergency Management Agency, transmitting, pursuant to law, the report of a rule entitled "Changes in Flood Elevation Determinations" (64 FR 1521) received on February 10, 1999; to the Committee on Banking, Housing, and Urban Affairs.

EC-1829. A communication from the General Counsel of the Federal Emergency Management Agency, transmitting, pursuant to law, the report of a rule entitled "List of Communities Eligible for the Sale of Flood Insurance" (Docket FEMA-7706) received on February 10, 1999; to the Committee on Banking, Housing, and Urban Affairs.

EC-1830. A communication from the Director of the Defense Security Cooperation Agency, Department of Defense, transmitting, pursuant to law, the Agency's report on security assistance information relative to Military Assistance, Military Exports, and Military Imports for fiscal year 1998; to the Committee on Armed Services.

EC-1831. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to law, the Department's report on U.S. Government Assistance to and Cooperative Activities with the New Independent States of the Former Soviet Union; to the Committee on Foreign Relations.

EC-1832. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to law, the report of a rule entitled "Schedule of Fees for Consular Services, Department of State and Overseas Embassies and Consulates" received on February 10, 1999; to the Committee on Foreign Relations.

EC-1833. A communication from the Administrator of the U.S. Agency for International Development, transmitting, pursuant to law, a report on Development Assistance Program Allocations for fiscal year 1999; to the Committee on Foreign Relations.

EC-1834. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Transportation Equity Act for the 21st Century; Implementation Guidance for the Interstate Highway Reconstruction/Rehabilitation Pilot Program; Solicitation for Candidate Proposals" received on February 8, 1999; to the Committee on Environment and Public Works.

EC-1835. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Uniform Relocation Assistance and Real Property Acquisition Regulations for Federal and Federally Assisted Programs" (RIN2125-AE34) received on February 8, 1999; to the Committee on Environment and Public Works.

EC-1836. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Air Quality Implementation Plans; Illinois: Motor Vehicle Inspection and Maintenance" (FRL6232-7) received on February 9, 1999; to the Committee on Environment and Public Works.

EC-1837. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Federal Operating Permits Program" (RIN2060-AG90) received on February 9, 1999; to the Committee on Environment and Public Works.

EC-1838. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Petroleum Refining Process Wastes; Exemption for Leachate from Non-Hazardous Waste Landfills; Final Rule" (RIN2050-AE61) received on February 9, 1999; to the Committee on Environment and Public Works.

EC-1839. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Air Quality Implementation Plans; Illinois: Clean Fuel Fleet Program Revision" (FRL6232-8) received on February 9, 1999; to the Committee on Environment and Public Works.

EC-1840. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval of the Clean Air Act, Section 112(1), Delegation of Authority to Three Local Air Agencies in Washington; Correction and Clarification" (FRL6233-6) received on February 10, 1999; to the Committee on Environment and Public Works.

EC-1841. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Petroleum Refining Process Wastes; Exemption for Leachate from Non-Hazardous Waste Landfills; Final Rule" (RIN2050-AE61) received on February 5, 1999; to the Committee on Environment and Public Works.

EC-1842. A communication from the Chairman of the Nuclear Regulatory Commission, transmitting, pursuant to law, the Commission's quarterly report on the nondisclosure of Safeguards Information for the period October 1, 1998 through December 31, 1998; to the Committee on Environment and Public Works.

EC-1843. A communication from the Secretary of Commerce, transmitting, pursuant to law, the Department's report entitled "1998 Annual Report of the Visiting Committee on Advanced Technology of the National Institute of Standards and Technology"; to the Committee on Commerce, Science, and Transportation.

EC-1844. A communication from the Secretary of Commerce, transmitting, pursuant to law, the Department's report entitled "National Implementation Plan for Modernization of the National Weather Service for Fiscal Year 1999"; to the Committee on Commerce, Science, and Transportation.

EC-1845. A communication from the Director of the National Institute of Standards and Technology, Department of Commerce, transmitting, pursuant to law, the Institute's report on donated educationally useful Federal equipment; to the Committee on Commerce, Science, and Transportation.

EC-1846. A communication from the Acting Assistant Administrator for Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Fisheries of the Northeastern United States; Summer Flounder, Scup, and Black Sea Bass Fisheries; Adjustments to the 1999 Summer Flounder Commercial Quota; Commercial Quota Harvested for Delaware" (I.D. 012299B) received on February 10, 1999; to the Committee on Commerce, Science, and Transportation.

EC-1847. A communication from the Director of the Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Fisheries of the Exclusive Economic Zone Off Alaska; Atka Mackerel in the Eastern Aleutian District and Bering Sea Subarea of the Bering Sea and Aleutian Islands" (I.D. 012899A) received on February 10, 1999; to the Committee on Commerce, Science, and Transportation.

EC-1848. A communication from the Director of the Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic; Trip Limit Reduction" (I.D. 012999A) received on February 10, 1999; to the Committee on Commerce, Science, and Transportation.

EC-1849. A communication from the Acting Director of the Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Fisheries of the Exclusive Economic Zone Off Alaska; Groundfish by Vessels Using Non-pelagic Trawl Gear in the Red King Crab Savings Subarea" (I.D. 020199A) received on February 10, 1999; to the Committee on Commerce, Science, and Transportation.

EC-1850. A communication from the General Counsel of the Consumer Product Safety Commission, transmitting, pursuant to law, the report of a rule entitled "Final Technical Changes; Standard for the Flammability of Children's Sleepwear: Sizes 0 Through 6X; Standard for the Flammability of Children's Sleepwear: Sizes 7 Through 14" received on February 10, 1999; to the Committee on Commerce, Science, and Transportation.

EC-1851. A communication from the Director of the Office of Regulations Management, Department of Veterans Affairs, transmitting, pursuant to law, the report of a rule entitled "Board of Veteran's Appeals: Rules of Practice—Notification of Representatives in Connection with Motions for the Revision of Decisions on Grounds of Clear and Unmistakable Error" (RIN2900-AJ75) received on February 16, 1999; to the Committee on Veterans' Affairs.

EC-1852. A communication from the Executive Director of the Committee for Purchase From People who are Blind or Severely Disabled, transmitting, pursuant to law, a list of additions to and deletions from the Committee's Procurement List dated February

10, 1999; to the Committee on Governmental Affairs.

EC-1853. A communication from the Assistant Legal Adviser for Treaty Affairs, transmitting, pursuant to law, the texts of international agreements other than treaties entered into by the United States (99-8 to 99-13); to the Committee on Foreign Relations.

EC-1854. A communication from the Acting Administrator of the Foreign Agricultural Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Sugar to be Imported and Re-exported in Refined Form or in Sugar Containing Products, or Used for the Production of Polyhydric Alcohol" (RIN0551-AA39) received on February 16, 1999; to the Committee on Agriculture, Nutrition, and Forestry.

EC-1855. A communication from the Director of the Office of Surface Mining Reclamation and Enforcement, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled "Abandoned Mine Land (AML) Reclamation Program; Enhancing AML Reclamation" (RIN1029-AB89) received on February 11, 1999; to the Committee on Energy and Natural Resources.

EC-1856. A communication from the Director of the National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the Service's report on the New England fishing capacity reduction initiative for calendar year 1998; to the Committee on Commerce, Science, and Transportation.

EC-1857. A communication from the Director of the National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Taking of Marine Mammals Incidental to Commercial Fishing Operations; Pacific Offshore Cetacean Take Reduction Plan Regulations" (I.D. 111398D) received on February 11, 1999; to the Committee on Commerce, Science, and Transportation.

EC-1858. A communication from the Chief Justice of the Supreme Court of the United States, transmitting, the Report of the Proceedings of the Judicial Conference of the United States, held in Washington, D.C., on September 15, 1998; to the Committee on the Judiciary.

EC-1859. A communication from the Assistant Secretary for Fish and Wildlife and Parks, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled "Migratory Bird Hunting; Regulations to Increase Harvest of Mid-Continent Light Geese" (RIN1018-AF25) received on February 11, 1999; to the Committee on Environment and Public Works.

EC-1860. A communication from the Assistant Secretary for Fish and Wildlife and Parks, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled "Migratory Bird Hunting; Establishment of a Conservation Order for the Reduction of Mid-Continent Light Goose Populations" (RIN1018-AF05) received on February 11, 1999; to the Committee on Environment and Public Works.

EC-1861. A communication from the Director of the Office of Congressional Affairs, Nuclear Regulatory Commission, transmitting, pursuant to law, the report of a rule entitled "Policy and Procedure for NRC Enforcement Actions; Revised Treatment of Severity Level IV Violations at Power Reactors" (NUREG 1600, Rev.1) received on February 11, 1999; to the Committee on Environment and Public Works.

EC-1862. A communication from the Director of the Office of Congressional Affairs, Nuclear Regulatory Commission, transmitting, pursuant to law, the report of a rule entitled "Spent Fuel Heat Generation in an Independent Spent Fuel Storage Installation" (Guide 3.54) received on February 11, 1999; to the Committee on Environment and Public Works.

EC-1863. A communication from the Director of the Office of Congressional Affairs, Nuclear Regulatory Commission, transmitting, pursuant to law, the report of a rule entitled "Standard Format and Content of License Termination Plans for Nuclear Power Reactors" (Guide 1.179) received on February 11, 1999; to the Committee on Environment and Public Works.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. MURKOWSKI:

S. 430. A bill to amend the Alaska Native Claims Settlement Act, to provide for a land exchange between the Secretary of Agriculture and the Kake Tribal Corporation, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. THURMOND:

S. 431. A bill to amend the Alcohol Beverage Labeling Act of 1988 to grant authority to the Secretary of Health and Human Services to carry out the Act, and for other purposes; to the Committee on Commerce, Science, and Transportation.

S. 432. A bill to amend the Internal Revenue Code of 1986 to increase the rate of tax on wine and to dedicate the resulting increased revenues to programs for the prevention and treatment of alcohol abuse; to the Committee on Finance.

S. 433. A bill to amend the Alcoholic Beverage Labeling Act of 1988 to prohibit additional statements and representations relating to alcoholic beverages and health, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. BREAU (for himself, Mr. BRYAN, Mr. DORGAN, and Mr. FRIST):

S. 434. A bill to amend the Internal Revenue Code of 1986 to simplify the method of payment of taxes on distilled spirits; to the Committee on Finance.

By Mr. ENZI (for himself and Mr. THOMAS):

S. 435. A bill to amend the Internal Revenue Code of 1986 to allow the Secretary of the Treasury to waive the contemporaneous substantiation requirement for deduction of charitable contributions in certain cases; to the Committee on Finance.

By Mr. HELMS:

S. 436. A bill for the relief of Augusto Segovia and Maria Segovia, husband and wife, and their children; to the Committee on the Judiciary.

By Mr. REID (for himself and Mr. BRYAN):

S. 437. A bill to designate the United States courthouse under construction at 338 Las Vegas Boulevard South in Las Vegas, Nevada, as the "Lloyd D. George United States Courthouse"; to the Committee on Environment and Public Works.

By Mr. BURNS (for himself and Mr. BAUCUS):

S. 438. A bill to provide for the settlement of the water rights claims of the Chippewa Cree Tribe of the Rocky Boy's Reservation, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. BRYAN:

S. 439. A bill to amend the National Forest and Public Lands of Nevada Enhancement Act of 1988 to adjust the boundary of the Toiyabe National Forest, Nevada; to the Committee on Energy and Natural Resources.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Ms. COLLINS (for herself, Mr. INOUE, Mr. NICKLES, Mr. ROTH, Mr. FRIST, Mr. JEFFORDS, Mr. ROCKEFELLER, Mr. TORRICELLI, Mr. KERRY, Mr. DEWINE, Mr. COVERDELL, Mr. VOINOVICH, Mr. SHELBY, Mr. HELMS, Mr. ROBB, Mr. CLELAND, Mr. CONRAD, Mr. DASCHLE, Mr. GRASSLEY, Mr. ABRAHAM, Mr. AKAKA, Mr. ALLARD, Mr. BAUCUS, Mr. BROWNBACK, Mr. BRYAN, Mr. CHAFFEE, Mr. CRAIG, Mr. DODD, Mr. DOMENICI, Mr. ENZI, Mr. FEINGOLD, Mr. FITZGERALD, Mr. GORTON, Mr. GRAMM, Mr. GREGG, Ms. LANDRIEU, Mr. STEVENS, Mr. THURMOND, Mr. WELLSTONE, Mr. SPECTER, Mr. ASHCROFT, Mr. DURBIN, Mr. WARNER, Mr. HAGEL, Mr. REID, Mr. INHOFE, Mrs. BOXER, Mr. BIDEN, Mr. GRAMS, Mr. LOTT, Mr. KENNEDY, Mr. SESSIONS, Mr. LAUTENBERG, Ms. SNOWE, Mr. WYDEN, Mr. HATCH, Mr. CRAPO, and Mrs. LINCOLN):

S. Con. Res. 12. A concurrent resolution requesting that the United States Postal Service issue a commemorative postage stamp honoring the 100th anniversary of the founding of the Veterans of Foreign Wars of the United States; to the Committee on Governmental Affairs.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. MURKOWSKI:

S. 430. A bill to amend the Alaska Native Claims Settlement Act, to provide for a land exchange between the Secretary of Agriculture and the Kake Tribal Corporation, and for other purposes; to the Committee on Energy and Natural Resources.

KAKE TRIBAL CORPORATION PUBLIC INTEREST LAND EXCHANGE ACT

• Mr. MURKOWSKI. Mr. President, today I rise to introduce the second of two bills of which passed the Senate last year with unanimous consent. The first bill which was introduced on February 12, 1999, amends the Alaska Native Claims Settlement Act (ANCSA), to provide for a land exchange between the Secretary of Agriculture and the Huna Totem Corporation, a village corporation created under that Act. The second bill provides for a similar land exchange between the Secretary and the Kake Tribal Corporation. Both of these bills will allow the Kake Tribal and Huna Totem Corporations to convey land needed as municipal watersheds in their surrounding communities to the Secretary in exchange for other Forest Service lands.

Enactment of these bills will meet two objectives. First, the two corporations will finally be able to fully recognize the economic benefits promised to them under ANCSA. Second, the watersheds that supply the communities of Hoonah, Alaska and Kake, Alaska will be protected in order to provide safe water for those communities.

The legislation I offer today clarifies several issues that were raised during

the Committee hearings and mark-up last year. First, the legislation directs that the subsurface estates owned by Sealaska Corporation in the Huna and Kake exchange lands are exchanged for similar subsurface estates in the conveyed Forest Service lands. Second the substitute clarifies that these exchanges are to be done on an equal value basis. Both the Secretary of Agriculture and the corporations insisted on this provision. I believe this is critical, Mr. President, because both these bills provide that any timber derived from the newly acquired Corporation lands be processed in-state, a requirement that does not currently exist on the watershed lands the corporations are exchanging. Therefore, if this exchange simply were done on an acre-for-acre basis it is likely that the acreage the corporations are exchanging, without any timber export restrictions, would have a much higher value than what they would get in return. It is for this reason that these exchanges will not be done on an acre-for-acre basis. If it ends up that either party has to receive additional compensation, either in additional lands or in cash to equalize the value, then it is my hope this will be done in an expeditious way to allow the exchange to move forward within the times specified in the legislation.

I believe these two pieces of legislation are in the best interest of the native corporations, the Alaska communities where the watersheds are located, and the Federal government. It is my intention to try and pass these bills out of the Senate Energy and Natural Resources Committee at the earliest opportunity.

Mr. President, I ask that the text of the bills be printed in the RECORD.

The bill follows:

S. 430

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Kake Tribal Corporation Public Interest Land Exchange Act".

SEC. 2. AMENDMENT OF SETTLEMENT ACT.

The Alaska Native Claims Settlement Act (Public Law 92-203, December 18, 1971, 85 Stat. 688, 43 U.S.C. 1601 et seq.), as amended, is further amended by adding at the end thereof:

"SEC. . KAKE TRIBAL CORPORATION LAND EXCHANGE.

"(a) GENERAL.—In exchange for lands and interests therein described in subsection (b), the Secretary of Agriculture shall, subject to valid existing rights, convey to the Kake Tribal Corporation the surface estate and to Sealaska Corporation the subsurface estate of the Federal land identified by Kake Tribal Corporation pursuant to subsection (c): Lands exchanged pursuant to this section shall be on the basis of equal value.

"(b) The surface estate to be conveyed by Kake Tribal Corporation and the subsurface estate to be conveyed by Sealaska Corporation to the Secretary of Agriculture are the municipal watershed lands as shown on the map dated September 1, 1997, and labeled Attachment A, and are further described as follows:

MUNICIPAL WATERSHED
COPPER RIVER MERIDIAN
T56S, R72E

Section	Approximate acres
13	82
23	118
24	635
25	640
26	346
34	9
35	349
36	248
Approximate total	2,427

“(c) Within ninety (90) days of the receipt by the United States of the conveyances of the surface estate and the subsurface estate described in subsection (b), Kake Tribal Corporation shall be entitled to identify lands in the Hamilton Bay and Saginaw Bay areas, as depicted on the maps dated September 1, 1997, and labeled Attachments B and C. Kake Tribal Corporation shall notify the Secretary of Agriculture in writing which lands Kake Tribal Corporation has identified.

“(d) TIMING OF CONVEYANCE AND VALUATION.—The conveyance mandated by subsection (a) by the Secretary of Agriculture shall occur within ninety (90) days after the list of identified lands is submitted by Kake Tribal Corporation pursuant to subsection (c).

“(e) MANAGEMENT OF WATERSHED.—The Secretary of Agriculture shall enter into a Memorandum of Agreement with the City of Kake, Alaska, to provide for management of the municipal watershed.

“(f) TIMBER MANUFACTURING; EXPORT RESTRICTION.—Notwithstanding any other provision of law, timber harvested from land conveyed to Kake Tribal Corporation under this section shall not be exported as unprocessed logs from Alaska, nor may Kake Tribal Corporation sell, trade, exchange, substitute, or otherwise convey that timber to any person for the purpose of exporting that timber from the State of Alaska.

“(g) RELATION TO OTHER REQUIREMENTS.—The land conveyed to Kake Tribal Corporation and Sealaska Corporation under this section shall be considered, for all purposes, land conveyed under the Alaska Native Claims Settlement Act.

“(h) MAPS.—The maps referred to in this section shall be maintained on file in the Office of the Chief, United States Forest Service, and in the Office of the Secretary of the Interior, Washington, D.C. The acreage cited in this section is approximate, and if there is any discrepancy between cited acreage and the land depicted on the specified maps, the maps shall control. The maps do not constitute an attempt by the United States to convey State or private land.●

By Mr. THURMOND:

S. 431. A bill to amend the Alcohol Beverage Labeling Act of 1988 to grant authority to the Secretary of Health and Human Services to carry out the Act, and for other purposes; to the Committee on Commerce, Science, and Transportation.

ALCOHOLIC BEVERAGE LABELING ACT OF 1999

By Mr. THURMOND:

S. 432. A bill to amend the Internal Revenue Code of 1986 to increase the rate of tax on wine and to dedicate the resulting increased revenues to programs for the prevention and treatment of alcohol abuse; to the Committee on Finance.

THE ALCOHOL ABUSE, PREVENTION AND
TREATMENT TRUST FUND ACT OF 1999

By Mr. THURMOND:

S. 433. A bill to amend the Alcoholic Beverage Labeling Act of 1988 to prohibit additional statements and representations relating to alcoholic beverages and health, and for other purposes; to the Committee on Commerce, Science, and Transportation.

THE ALCOHOLIC BEVERAGE LABEL
PRESERVATION ACT OF 1999

Mr. THURMOND. Mr. President, I rise today to address an important national health concern. On February 5, 1999, the Department of Treasury and the Bureau of Alcohol, Tobacco and Firearms approved two new health statements for wine labels. This decision, in my opinion, was irresponsible and constitutes poor public policy.

Alcohol abuse is a serious problem in our country. For years, drunk driving, underage drinking, drinking during pregnancy, and alcoholism have had devastating effects on the health and safety of our citizens. During the 1980s, I was proud to be part of a national public health campaign that resulted in congressionally mandated alcohol container warning labels.

Since the implementation of these warning labels, the wine industry has been determined to undermine their effectiveness. Through a vigorous lobbying and marketing campaign, the wine industry has enticed the public with the assurance that alcohol consumption is healthy. A recent New York Times editorial by Michael Massing provides an insightful summary of the wine industries' irresponsible efforts to manipulate public policy toward this end. I ask unanimous consent that the text of that editorial be printed in the CONGRESSIONAL RECORD at the conclusion of my remarks.

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

(See Exhibit 1)

Mr. THURMOND. Mr. President, unfortunately, the wine industry may already have had ironic success in its campaign. According to a recent study by the Centers for Disease Control and Prevention, four times as many pregnant women frequently consumed alcohol in 1995 than did in 1991. The study attributes reports about the so-called health benefits of moderate wine consumption as a cause for this terrible increase.

The decision by Treasury and A.T.F. to approve new health claims labels will escalate the problems of alcohol abuse. Last week, several big liquor firms signaled an intent to attach health-benefits labels to bottles of liquor. The alcohol industry's veiled attempt to use health claims as a marketing scheme has gone on long enough. And the passive complicity of Treasury and A.T.F. is unacceptable. Today I am introducing three bills that will address this public health dilemma.

The first bill, the Alcoholic Beverage Labeling Act of 1999, will transfer authority over alcoholic beverage labeling from the Department of Treasury to the Department of Health and

Human Services. Treasury and A.T.F. proved themselves incapable of managing the responsibility of alcohol labeling when they decided to favor the aggressive lobbying tactics of the wine industry over the public health concerns of such groups as the Center for Science in the Public Interest, the American Medical Association, the American Cancer Society, and the American Heart Association. The issues of public health and labeling require a level of experience and expertise that Treasury and A.T.F. apparently do not possess. My legislation will give the labeling authority to the Department of Health and Human Services and its subsidiary the Food and Drug Administration which have more experience in these matters.

The second bill I am introducing, The Alcohol Abuse, Prevention and Treatment Trust Fund Act of 1999, will create a trust fund dedicated to programs for the prevention and treatment of alcohol related problems and will be paid for by a new tax on wine. Wine is currently taxed at a rate slightly lower than beer and significantly lower than distilled spirits. Distilled spirits are taxed more heavily than beer because, according to the Congressional Research Service, more affluent taxpayers drink distilled spirits while working class taxpayers drink beer. Like distilled spirits, wine is consumed by more prosperous taxpayers, so it is reasonable that wine should be taxed at a rate similar to distilled spirits.

The revenue generated by this tax will be used specifically for the prevention and treatment of alcohol related problems such as heart disease and birth defects. Funds will also be used to address problems caused by moderate alcohol consumption, such as breast cancer and hypertension.

For many years the tobacco industry deceived the public about the consequences of smoking. It appears as if the wine industry is following the lead of the tobacco industry. Rather than wait for the long term repercussions of an alcohol health benefits campaign, we should take action now to thwart its inevitable effects.

The third and final bill I am introducing today, the Alcoholic Beverage Label Preservation Act of 1999, will block the use of the two new health claims labels approved by Treasury and A.T.F.

I urge my colleagues to review these important pieces of legislation and support passage.

Mr. President, I ask unanimous consent that the text of all three bills be printed in the CONGRESSIONAL RECORD at the conclusion of my remarks. I also ask unanimous consent that the text of an article by the Marin Institute, which provides helpful background information on this subject, be printed in the CONGRESSIONAL RECORD.

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

EXHIBIT 1

[From the New York Times, Feb. 9, 1999]

WINE'S UNFORTUNATE NEW LABELS

(By Michael Massing)

The Government's announcement on Friday that it would allow the wine industry to use bottle labels that mention the "health effects of wine consumption" exemplifies what is wrong with the political process in Washington.

In making the label decision, the Treasury Department's Bureau of Alcohol, Tobacco and Firearms drew on a growing body of scientific research showing that moderate alcohol consumption can reduce the risk of heart disease in some people. Yet the new labels were vigorously opposed by an array of medical and public health groups, including the American Cancer Society, the American Medical Association, the American Heart Association and the Center for Science in the Public Interest (as well as Senators Strom Thurmond and Robert Byrd), on the grounds that the labels would simply encourage more people to drink and would drive moderate drinkers to drink more heavily, with potentially steep medical and social costs.

That the Federal bureau would override such concerns is testimony to the political clout of the wine industry. Its lobbying arm, the Wine Institute, has an annual budget of more than \$6 million, a staff of two dozen at its headquarters in San Francisco, satellite offices in seven other cities and lobbyists in more than 40 states. Its Washington office is headed by Robert Koch, who is a former staff director for Representative Richard Gephardt (as well as being George Bush's son-in-law).

The Wine Institute's president, John DeLuca, had made approval of the new labels a priority for several years. Mobilizing the industry's many supporters in Congress (who include virtually the entire California delegation), Mr. DeLuca succeeded first in softening the warnings about alcohol consumption in the Federal Government's Dietary Guidelines.

Building on that, he mounted a campaign to persuade the bureau—long a handmaiden to the alcohol industry—to approve new labels referring to the health benefits of wine. The bureau would not go that far, but it did approve language that will undoubtedly help to boost sales. "To learn the health effects of wine consumption, send for the Federal Government's Dietary Guidelines for Americans," one label will read, giving an address at the Agriculture Department.

Public health groups protested that such a move would undermine years of patient efforts to raise awareness of alcohol abuse, one of the nation's biggest health problems. But they could not match the wine industry's political and financial resources, and so the vintners' narrow commercial interests won out. In the end, perhaps a limited number of moderate drinkers will benefit, but for the general public the risks—in terms of increased alcoholism, drunk driving and birth defects—seem far greater.

In the coming months, when you pick up a bottle of merlot or chardonnay bearing a label urging you "to consult your family doctor about the health effects of wine consumption," take it as a sign of how unhealthy our political process has become.

S. 431

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Alcoholic Beverage Labeling Act of 1999".

SEC. 2. AUTHORITY OF SECRETARY OF HEALTH AND HUMAN SERVICES.

Section 203(9) of the Alcoholic Beverage Labeling Act of 1988 (27 U.S.C. 214(9)) is

amended by striking "Secretary of the Treasury" and inserting "Secretary of Health and Human Services".

SEC. 3. TRANSFER OF FUNCTIONS AND SAVINGS PROVISIONS.

(a) **DEFINITIONS.**—For purposes of this section, unless otherwise provided or indicated by the context—

(1) the term "Federal agency" has the meaning given the term "agency" by section 551(1) of title 5, United States Code;

(2) the term "function" means any duty, obligation, power, authority, responsibility, right, privilege, activity, or program; and

(3) the term "office" includes any office, administration, agency, institute, unit, organizational entity, or component thereof.

(b) **TRANSFER OF FUNCTIONS.**—There are transferred to the Department of Health and Human Services all functions that the Secretary of the Treasury exercised before the effective date of this section (including all related functions of any officer or employee of the Department of the Treasury) relating to the Alcoholic Beverage Labeling Act of 1988 (27 U.S.C. 213 et seq.).

(c) **DETERMINATIONS OF CERTAIN FUNCTIONS BY THE OFFICE OF MANAGEMENT AND BUDGET.**—If necessary, the Office of Management and Budget shall make any determination of the functions that are transferred under subsection (b).

(d) **TRANSFER AND ALLOCATIONS OF APPROPRIATIONS AND PERSONNEL.**—Except as otherwise provided in this section, the personnel employed in connection with, and the assets, liabilities, grants, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds employed, used, held, arising from, available to, or to be made available in connection with the functions transferred by this section, subject to section 1531 of title 31, United States Code, shall be transferred to the Department of Health and Human Services. Unexpended funds transferred pursuant to this subsection shall be used only for the purposes for which the funds were originally authorized and appropriated.

(e) **INCIDENTAL TRANSFERS.**—The Director of the Office of Management and Budget, at such time or times as the Director shall provide, may make such determinations as may be necessary with regard to the functions transferred by this section, and make such additional incidental dispositions of personnel, assets, liabilities, grants, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds employed, used, held, arising from, available to, or to be made available in connection with such functions, as may be necessary to carry out this section. The Director of the Office of Management and Budget shall provide for the termination of the affairs of all entities terminated by this section and for such further measures and dispositions as may be necessary to effectuate the objectives of this section.

(f) **EFFECT ON PERSONNEL.**—

(1) **IN GENERAL.**—Except as otherwise provided by this section, the transfer pursuant to this section of full-time personnel (except special Government employees) and part-time personnel holding permanent positions shall not cause any such employee to be separated or reduced in grade or compensation for 1 year after the date of transfer of such employee under this section.

(2) **EXECUTIVE SCHEDULE POSITIONS.**—Except as otherwise provided in this section, any person who, on the day before the effective date of this section, held a position compensated in accordance with the Executive Schedule prescribed in chapter 53 of title 5, United States Code, and who, without a break in service, is appointed in the Depart-

ment of Health and Human Services to a position having duties comparable to the duties performed immediately before such appointment shall continue to be compensated in such new position at not less than the rate provided for such previous position, for the duration of the service of such person in such new position.

(3) **TERMINATION OF CERTAIN POSITIONS.**—Positions whose incumbents are appointed by the President, by and with the advice and consent of the Senate, the functions of which are transferred by this section, shall terminate on the effective date of this section.

(g) **SAVINGS PROVISIONS.**—

(1) **CONTINUING EFFECT OF LEGAL DOCUMENTS.**—All orders, determinations, rules, regulations, permits, agreements, grants, contracts, certificates, licenses, registrations, privileges, and other administrative actions—

(A) that have been issued, made, granted, or allowed to become effective by the President, any Federal agency or official of a Federal agency, or by a court of competent jurisdiction, in the performance of functions that are transferred under this section; and

(B) that were in effect before the effective date of this section, or were final before the effective date of this section and are to become effective on or after the effective date of this section;

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the President, the Secretary of Health and Human Services or other authorized official, a court of competent jurisdiction, or by operation of law.

(2) **PROCEEDINGS NOT AFFECTED.**—

(A) **IN GENERAL.**—This section shall not affect any proceedings, including notices of proposed rulemaking, or any application for any license, permit, certificate, or financial assistance pending before the Department of the Treasury on the effective date of this section, with respect to functions transferred by this section.

(B) **CONTINUATION.**—Such proceedings and applications shall be continued. Orders shall be issued in such proceedings, appeals shall be taken from the orders, and payments shall be made pursuant to the orders, as if this section had not been enacted, and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, set aside, or revoked by a duly authorized official, by a court of competent jurisdiction, or by operation of law.

(C) **CONSTRUCTION.**—Nothing in this paragraph shall be construed to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this section had not been enacted.

(3) **SUITS NOT AFFECTED.**—This section shall not affect suits commenced before the effective date of this section, and in all such suits, proceedings shall be had, appeals taken, and judgments rendered in the same manner and with the same effect as if this section had not been enacted.

(4) **NONABATEMENT OF ACTIONS.**—No suit, action, or other proceeding commenced by or against the Department of the Treasury, or by or against any individual in the official capacity of such individual as an officer of the Department of the Treasury, shall abate by reason of the enactment of this section.

(5) **ADMINISTRATIVE ACTIONS RELATING TO PROMULGATION OF REGULATIONS.**—Any administrative action relating to the preparation or promulgation of a regulation by the Department of the Treasury relating to a function transferred under this section may be continued by the Department of Health and

Human Services with the same effect as if this section had not been enacted.

(h) **TRANSITION.**—The Secretary of Health and Human Services may utilize—

(1) the services of such officers, employees, and other personnel of the Department of the Treasury with respect to functions transferred to the Department of Health and Human Services by this section; and

(2) funds appropriated to such functions; for such period of time as may reasonably be needed to facilitate the orderly implementation of this section.

(i) **REFERENCES.**—A reference in any other Federal law, Executive order, rule, regulation, or delegation of authority, or any document or of relating to—

(1) the Secretary of the Treasury with regard to functions transferred under subsection (b), shall be deemed to refer to the Secretary of Health and Human Services; and

(2) the Department of the Treasury with regard to functions transferred under subsection (b), shall be deemed to refer to the Department of Health and Human Services.

(j) **ADDITIONAL CONFORMING AMENDMENTS.**—

(1) **RECOMMENDED LEGISLATION.**—After consultation with the appropriate committees of Congress and the Director of the Office of Management and Budget, the Secretary of Health and Human Services shall prepare and submit to the Congress recommended legislation containing technical and conforming amendments to reflect the changes made by this section.

(2) **SUBMISSION TO THE CONGRESS.**—Not later than 6 months after the effective date of this section, the Secretary of Health and Human Services shall submit the recommended legislation referred to under paragraph (1).

S. 432

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Alcohol Abuse Prevention and Treatment Trust Fund Act of 1999".

SEC. 2. ALCOHOL ABUSE PREVENTION AND TREATMENT TRUST FUND.

(a) **GENERAL RULE.**—Subchapter A of chapter 98 of the Internal Revenue Code of 1986 (relating to establishment of trust funds) is amended by adding at the end the following:

"SEC. 9511. ALCOHOL ABUSE PREVENTION AND TREATMENT TRUST FUND.

"(a) **CREATION OF TRUST FUND.**—There is established in the Treasury of the United States a trust fund to be known as the 'Alcohol Abuse Prevention and Treatment Trust Fund' (in this section referred to as 'Trust Fund'), consisting of such amounts as may be appropriated or credited to the Trust Fund as provided in this section or section 9602(b).

"(b) **TRANSFERS TO TRUST FUND.**—There are hereby appropriated to the Trust Fund amounts equivalent to the additional taxes received in the Treasury under chapter 51 by reason of the amendments made by section 3 of the Alcohol Abuse Prevention and Treatment Trust Fund Act of 1999 and the additional taxes received in the Treasury by reason of section 3(d) of such Act.

"(c) **EXPENDITURES FROM TRUST FUND.**—Amounts in the Trust Fund shall be available, as provided in appropriation Acts, for appropriation to the National Institute of Alcohol Abuse and Alcoholism and to the Substance Abuse and Mental Health Services Administration for programs for the prevention and treatment of alcoholism and for research on the causes, consequences, prevention, and treatment of the health problems related to alcohol use, including high blood

pressure, stroke, heart disease, cancer (including breast cancer), and birth defects."

(b) **CONFORMING AMENDMENT.**—The table of sections for subchapter A of chapter 98 of the Internal Revenue Code of 1986 is amended by adding at the end the following:

"Sec. 9511. Alcohol Abuse Prevention and Treatment Trust Fund."

SEC. 3. INCREASE IN EXCISE TAXES ON WINE TO ALCOHOLIC EQUIVALENT OF TAXES ON DISTILLED SPIRITS.

(a) **IN GENERAL.**—

(1) **WINES CONTAINING NOT MORE THAN 14 PERCENT ALCOHOL.**—Paragraph (1) of section 5041(b) of the Internal Revenue Code of 1986 (relating to rates of tax on wines) is amended by striking "\$1.07" and inserting "\$2.97".

(2) **WINES CONTAINING MORE THAN 14 (BUT NOT MORE THAN 21) PERCENT ALCOHOL.**—Paragraph (2) of section 5041(b) of such Code is amended by striking "\$1.57" and inserting "\$4.86".

(3) **WINES CONTAINING MORE THAN 21 (BUT NOT MORE THAN 24) PERCENT ALCOHOL.**—Paragraph (3) of section 5041(b) of such Code is amended by striking "\$3.15" and inserting "\$6.08".

(b) **EFFECTIVE DATE.**—The amendments made by this section shall take effect on October 1, 1999.

(c) **FLOOR STOCKS TAXES.**—

(1) **IMPOSITION OF TAX.**—

(A) **IN GENERAL.**—In the case of any tax-increased article—

(i) on which tax was determined under part I of subchapter A of chapter 51 of the Internal Revenue Code of 1986 or section 7652 of such Code before October 1, 1999, and

(ii) which is held on such date for sale by any person, there shall be imposed a tax at the applicable rate on each such article.

(B) **APPLICABLE RATE.**—For purposes of clause (i), the applicable rate is—

(i) \$1.90 per wine gallon in the case of wine described in paragraph (1) of section 5041(b) of such Code,

(ii) \$3.29 per wine gallon in the case of wine described in paragraph (2) of section 5041(b) of such Code, and

(iii) \$2.93 per wine gallon in the case of wine described in paragraph (3) of section 5041(b) of such Code.

In the case of a fraction of a gallon, the tax imposed by subparagraph (A) shall be the same fraction of the amount of such tax imposed on a whole gallon.

(C) **TAX-INCREASED ARTICLE.**—For purposes of this subsection, the term "tax-increased article" means wine described in paragraph (1), (2), or (3) of section 5041(b) of such Code.

(2) **EXCEPTION FOR CERTAIN SMALL WHOLESALE OR RETAIL DEALERS.**—No tax shall be imposed by paragraph (1) on tax-increased articles held on October 1, 1999, by any dealer if—

(A) the aggregate liquid volume of tax-increased articles held by such dealer on such date does not exceed 500 wine gallons, and

(B) such dealer submits to the Secretary (at the time and in the manner required by the Secretary) such information as the Secretary shall require for purposes of this subparagraph.

(3) **LIABILITY FOR TAX AND METHOD OF PAYMENT.**—

(A) **LIABILITY FOR TAX.**—A person holding any tax-increased article on October 1, 1999, to which the tax imposed by paragraph (1) applies shall be liable for such tax.

(B) **METHOD OF PAYMENT.**—The tax imposed by paragraph (1) shall be paid in such manner as the Secretary shall prescribe by regulations.

(C) **TIME FOR PAYMENT.**—The tax imposed by paragraph (1) shall be paid on or before March 31, 2000.

(4) **CONTROLLED GROUPS.**—

(A) **CORPORATIONS.**—In the case of a controlled group of corporations, the 500 wine

gallon amount specified in paragraph (2) shall be apportioned among the dealers who are component members of such group in such manner as the Secretary shall by regulations prescribe. For purposes of the preceding sentence, the term "controlled group of corporations" has the meaning given to such term by subsection (a) of section 1563 of such Code; except that for such purposes the phrase "more than 50 percent" shall be substituted for the phrase "at least 80 percent" each place it appears in such subsection.

(B) **NONINCORPORATED DEALERS UNDER COMMON CONTROL.**—Under regulations prescribed by the Secretary, principles similar to the principles of subparagraph (A) shall apply to a group of dealers under common control where 1 or more of such dealers is not a corporation.

(5) **OTHER LAWS APPLICABLE.**—All provisions of law, including penalties, applicable to the tax imposed by section 5041 of such Code with respect to any tax-increased article shall, insofar as applicable and not inconsistent with the provisions of this section, apply to the floor stocks taxes imposed by paragraph (1) to the same extent as if such taxes were imposed by such section 5041.

(6) **DEFINITIONS.**—For purposes of this subsection—

(A) **IN GENERAL.**—Terms used in this paragraph which are also used in subchapter A of chapter 51 of such Code shall have the respective meanings such terms have in such subchapter.

(B) **PERSON.**—The term "person" includes any State or political subdivision thereof, or any agency or instrumentality of a State or political subdivision thereof.

(C) **SECRETARY.**—The term "Secretary" means the Secretary of the Treasury or his delegate.

S. 433

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Alcoholic Beverage Label Preservation Act of 1999".

SEC. 2. PROHIBITION ON ADDITIONAL STATEMENTS AND REPRESENTATIONS.

(a) **FINDING.**—Section 202 of the Alcoholic Beverage Labeling Act of 1988 (27 U.S.C. 213) is amended—

(1) in the first sentence, by striking "The" and inserting "(a)(1) The";

(2) in the last sentence, by striking "It is therefore" and inserting the following:

"(b) It is"; and

(3) in subsection (a) (as designated in paragraph (1)), by adding at the end the following:

"(2) Congress finds that—

"(A) the consumers would be confused by an additional statement or representation, beyond the statement required by this Act, on alcoholic beverage containers relating to the health effects or consequences of alcoholic beverage consumption;

"(B) any such additional statement or representation would conflict with, dilute, impede, and undermine the clear reminder of the health effects or consequences in the statement required by this Act;

"(C) the effects of and consequences arising from drunk driving, underage drinking, drinking during pregnancy, and alcoholism have had a devastating effect on the health and safety of United States citizens; and

"(D) prevention of the effects and consequences is furthered by—

"(i) having an exclusive and clear statement on alcoholic beverage containers relating to the health effects and consequences of alcoholic beverage consumption; and

"(ii) prohibiting any other statement or representation pertaining to the health effects or consequences of alcoholic beverage consumption."

(b) PROHIBITION.—Section 205 of the Alcoholic Beverage Labeling Act of 1988 (27 U.S.C. 216) is amended—

(1) by striking "No" and inserting "(a) No"; and

(2) by adding at the end the following:

"(b) No container of an alcoholic beverage, or any box, carton, or other package, irrespective of the material from which made, that contains such a container, shall bear any statement or representation relating to alcoholic beverages and health, other than the statement required by section 204."

[From the Marin Institute, Summer 1996]

UNCLE SAM NEVER SAID DRINK FOR YOUR HEALTH

Most of the experts who authored the new Dietary Guidelines for Americans are astounded at widespread interpretation of their document as a prescription to drink alcohol.

Several members of the guidelines advisory committee question why U.S. Public Health Service Director Philip Lee deleted their references to the "drug effects" of alcohol. They hold the Wine Institute responsible for the press spin interpreting the government advice as a recommendation for moderate drinking.

One committee member, who oversees one of the world's most prominent academic wine study programs, feels manipulated by the Wine Institute, which represents an \$8 billion retail business and recently proposed a bottle label bigger than the warning label inviting consumers to "learn the health benefits of moderate wine consumption" by sending for the guidelines.

"If you read the whole alcohol guideline, you can see that it does not say drink for your health," says Dr. Lee, who partially credits his background in a family that made its own wine for his personal belief that it is beneficial. "The guideline says if you drink, do so in moderation, with food. It doesn't say to drink."

Interviews with nine of the 11 scientists, nutritionists and physicians who spent a year crafting the guidelines, and federal staffers and administrators who reworked them, reveal what every food editor knows: Food and what accompanies it in a glass, can or bottle is political.

The guidelines are the cornerstone of federal nutrition policy. The federal government uses them to plan food and nutrition education programs; private industry uses them to dispense nutrition information. A joint responsibility of the Health and Human Services Department and U.S. Department of Agriculture since 1980, the guidelines are updated every five years by an appointed panel of experts. The committee is only advisory to the administration, which has ultimate authority to change the guidelines before publication.

The 1995 version made history before the committee even met. It was the first set of guidelines mandated by Congress and the first to include oral testimony from special interest groups and individuals. Unlike the 1990 guidelines advisory committee, the 1995 group—expanded from nine to 11 members—lacked an expert on the public health effects of alcohol.

Ironically, the majority of the committee thought their most controversial advice was that Americans hold the line on weight at all costs and exercise 30 minutes a day to help do so. But changes in the alcohol section stole the headlines. Gone were 1990 statements that said "drinking . . . has no net

health benefit. . . ." and that alcohol consumption "is not recommended."

Two new sentences were added to the guideline: "Alcoholic beverages have been used to enhance the enjoyment of meals by many societies throughout human history," and "current evidence suggests that moderate drinking is associated with a lower risk for coronary heart disease in some individuals."

The list of problems associated with heavy drinking was expanded to include violence, accidents, high blood pressure, stroke, heart disease, and certain cancers. Calories in a serving of wine, beer and spirits were noted near the usual guideline definition of moderate drinking as a maximum of one drink a day for women and two a day for men. The concluding statement stressed for the first time that those who drink should do so "with meals, when consumption does not put you or others at risk."

Some of the headlines across America:

"A Toast to Your Health: US Government Now Says a Drink or Two Can Help You"

"A Little Food, A Little Walk, A Little Wine"

"Drink for Health—But Not As Much As You'd Hoped"

"When It Comes to Eating Right, Don't Forget the Wine"

"Have a Drink, Live a Little Longer"

"Eat, Drink and Be Healthy"

"W" magazine reported that at last the federal government included alcohol as an "appropriate 'nutritional substance.'"

John De Luca, president of the Wine Institute, gushed: "We had a campaign of tenacity, working with the contributions of the scientific community." He said that thanks to the guideline, alcohol was no longer to be seen as a part of a "sin industry," but as part of a healthy diet, "back on the table with meals, as it always has been."

De Luca told a reporter that the overall impact of the new wording was so positive that the wine industry might help distribute the new guidelines. When it came to paraphrasing the guidelines' reference to cardiac research and alcohol, De Luca's Wine Institute press releases left out the qualifying "in some individuals," making it sound as if moderate drinking might protect all adults.

Members of the committee that drafted the guidelines were dumbfounded. They felt their changes to the alcohol guideline were "modest." With adult Americans deriving five to seven percent of their caloric energy from alcohol, the experts said they intended to "emphasize the food use of alcoholic beverages rather than the social drug use." But they never expected to have that interpreted as recommending alcohol as some kind of health elixir.

Several committee members never saw the final version that emerged after government review and federal administrative editing. Some never noticed that their first sentence about alcohol enhancing meals had been moved down and that their two references to alcohol's "drug effects" had been deleted. The downside framing of alcohol as a drug that causes about 100,000 deaths a year had been softened to a general reference to alcohol as a potentially harmful substance. Most also failed to notice that their suggested footnote underscoring the fattening nature of alcohol had been removed.

Barbara Schneeman is dean of the College of Agriculture and Environmental Sciences at University of California at Davis, which houses one of the world's most prestigious wine study programs. Schneeman is the only committee member who also served on the 1990 Dietary Guidelines committee.

"What disappointed me was publicity that said we made a recommendation to drink," says Schneeman. "The guidelines do not con-

tain a recommendation to drink. If anything, I felt the alcohol guideline was more cautionary than before. I felt we were used by the Wine Institute . . . When I saw the coverage, my reaction was that the wine industry put a spin on it. The guideline does not differentiate between wine, beer or spirits."

The committee felt that there had to be "some acknowledgment of data accumulating on low-to-moderate alcohol consumption and the heart," Schneeman says. "There is a break point when you get into three or more glasses a day where you see all the risk. Before that break point, we don't fully understand what's going on—whether it's the alcohol or compounds other than the alcohol" that might be protective.

According to Schneeman, "once you begin to think about consuming alcohol for any reason other than enjoying a glass of it, that puts it into another ballpark—making a health claim." To her, "that might not be in the best long-term interest of the alcohol industry," because claiming health benefits on a label would probably open alcohol to being regulated as a drug.

"I have told the wine people that if I'm a clinician I may look at your data and say it's very interesting, but I'm not going to tell a patient to drink for health based on the observational studies we have thus far."

Schneeman says she is surprised the committee's references to "drug effects" were missing from the final version. As an advisory board, she says, the committee's power ended when they turned the proposed guidelines over to the agencies.

Dr. Irwin Rosenberg, director of the U.S. Department of Agriculture Human Nutrition Research Center on Aging at Tufts University, drafted the alcohol guideline and worked on it with two other committee members before submitting it to the entire panel. The committee self-selected working groups to draft guideline topics. Everyone agreed that Dr. Rosenberg was the natural writer for the alcohol section because of his special training in liver disease and nutrition.

If it had been up to Irwin Rosenberg, alcohol would have been taken out of the Dietary Guidelines. And according to him, the 1990 phrase that alcohol has "no net health benefit" is still accurate, although it "does not convey accurately the state of the science."

"It occurred to me to take alcohol out of the guidelines altogether," he says, "because it really doesn't belong, one could argue, with other elements of a food-based dietary guideline. Any discussion of alcohol is so enormously influenced by the problem of alcohol abuse . . . that it makes the whole issue of alcohol and public health such a complicated thing. Alcohol carries and enormous amount of baggage because of those other factors."

"But once a guideline is in, the inertia of taking it out is huge. There was tremendous concern over how that would be interpreted—that we don't care or it isn't important. So, in the end, my argument for taking it out wasn't given serious consideration."

Dr. Rosenberg says he wrote the sentence about alcohol having enhanced meals throughout history to bolster the committee's commitment to being more positive about enjoying food than in previous guidelines, where food was referred to in terms of nutrients.

"We didn't think we ought to be talking about what people do when they're drinking in a bar at 3 p.m. That's a public health/social issue. We were trying to bet at the question of alcohol as a meal beverage . . . I don't blame Mr. De Luca as a lobbyist for crowing and trying to take credit for what may have happened here. Maybe he can make his membership happy. I wanted to

posit alcohol with meals because when you have it with food that physiologically changes its impact [it is absorbed slower]. If this happened to intersect with a campaign of the wine industry to think of wine as a meal beverage, then so be it."

Dr. Rosenberg is concerned that any discussion of studies on cardiovascular risk and alcohol must stress that moderate drinking might be protective for some adults and not others.

"What I meant by 'some individuals' is that moderate alcohol consumption does not appear to protect all adults from risk of cardiovascular disease, and we don't know who might be protected and who might not be protected. We certainly didn't mean to suggest that it might protect everyone."

In making changes to the previous alcohol guideline, the committee ignored advice from former Surgeon General C. Everett Koop, the American Public Health Association and scores of health professionals who warned that any brief reference to current research could lead to oversimplification and misinterpretation as encouragement to drink for health. A policy statement that can be interpreted as both promoting and discouraging alcohol use can lead to abuse, they said.

Public health professionals offered their documentation, including an 11-year study by Dr. Carlos Camargo of Harvard University that concluded that men who had two to four drinks per week had lower death rates from all causes compared to men who had a drink or more per day.

The Wine Institute submitted its lists of studies. Both sides instigated letter-writing campaigns. The 1990 guidelines committee had received four comments on the alcohol section; in 1995, more than half of the 284 comments were directed at the alcohol guidelines.

Dr. Richard Havel, vice chairman of the committee and interim director of the Cardiovascular Research Institute at University of California at San Francisco, says none of it impacted him.

"I don't think a lot new has really happened in the area of the health effects of alcohol," he says. "Nothing that has scientific validity to influence the guidelines per se. We do not yet know the extent to which the reduced cardiovascular risk is the result of the change in HDL [the "good" cholesterol]. It could be lifestyle. To know for certain alcohol's effect on risk of cardiovascular disease, we would have to give pure ethyl alcohol to an individual for years."

What the committee was doing with its changes was "recognizing a reality," says Marion Nestle, head of New York University's Department of Nutrition, Food & Hotel Management and a member of the committee's alcohol guideline subgroup. "Alcohol is, in fact, a part of people's lifestyle and it is okay for most when done moderately . . . I don't think the committee was making comments about what should be. The 'should be' in alcohol is very complicated."

It is Nestle who points out that the process of coming up with federal dietary advice is "incredibly political." Anyone who thinks otherwise, she says, "does not really understand the situation."

During the past five years, the Wine Institute of San Francisco has made the release of studies about wine and health the centerpiece of its annual press conference in Washington, DC. First the studies were about red wine bolstering the "good cholesterol." Television's "60 Minutes" featured the story and red wine sales soared more than 40 percent. Then they disseminated research pointing to both red and white wine. Now that researchers are crediting ethyl alcohol regardless of

its form, the Wine Institute appears to be carrying the political ball on alcohol and health for all segments of the alcoholic beverage business.

Two years ago, vintners began to pressure Congress to direct the National Institute on Alcohol Abuse and Alcoholism (NIAAA) to study the health effects of moderate drinking. They succeeded in getting a legislative rider to the bill funding the NIAAA, which has thus far accepted 63 applications for about 10 grants to do \$2 million worth of research.

In the spring of 1994, California vintner Robert Mondavi went to the nation's capital and dined with Donna Shalala, secretary of Health and Human Services, and other appointed and elected officials. In a thank-you letter to Shalala, Mondavi Winery Vice President Herb Schmidt enclosed a study he discussed at the dinner. "The fact that moderate wine consumption could actually have a positive effect on the problem of rising health care costs is intriguing to me," he wrote.

Richard Rominger, deputy secretary of the Department of Agriculture, says political connections only assured the wine industry of a fair hearing.

"I don't think I did anything more for the Wine Institute than I did for any of the other commodity groups, whether it be the National Cattlemen's Association or any of the others," says Rominger.

Rominger says that when the vintners sent him correspondence regarding the alcohol guideline, he passed it to the staff supporting committee work with a note "to please consider it along with the other information you're getting on the subject."

He may have mentioned it to Dr. Lee when their paths crossed, "because we're both Californians and run into each other occasionally." In the end, says Rominger, "I'm sure the Wine Institute felt they could get a fair hearing from Dr. Lee or me. We're both Californians and they know us. That's the way it works in all kinds of government, I think. People like to talk to people they know."

It was Dr. Lee who deleted the committee's references to the "drug effects" of alcohol. Former chancellor of University of California at San Francisco and former U.S. assistant secretary of health, Dr. Lee says he struck the phrase suggested by the committee because, "if you take alcohol with food, you take it out of context if you think of it as a drug."

Dr. Lee says that he didn't think they needed an alcohol expert on a panel with more generalists than technical experts. Committee members were chosen by Lee and Eileen Kennedy, executive director of the Department of Agriculture's Center for Nutrition Policy & Promotion, after staff solicited nominations in the Federal Register and from major organizations such as the American Dietetics Association.

The health directors stands by the comment he made at the press conference last January when the guidelines were released: "In my personal view, wine with meals in moderation is beneficial. There was a significant bias in the past against drinking. To move from anti-alcohol to health benefits is a big change."

Dr. Lee says he comes to that belief because of research and because his physician father was a member of Medical Friends of Wine and the Lee family made wine for their own use. Yet, he stresses that as a clinician he knows the difference between alcohol use and abuse and "is very aware when you don't recommend alcohol."

John De Luca had no impact on what he changed in the committee's proposed guideline, says Dr. Lee.

"The main person I talked to because he's an old friend is John De Luca. We talked almost exclusively about research needs and particularly Heart, Lung and Blood Institute-funded research or the Institute for Alcoholism and Alcohol Abuse. NIAAA was funding research that related to alcohol beyond alcoholism and he [De Luca] was interested in having language in the appropriation that gave some guidance—a lot of people do—to National Institutes of Health with respect to research."

Dr. Lee adds that he has "tremendous respect" for De Luca, who has done a "very able" job promoting the Wine Institute. "But that doesn't mean he influenced me at all. Nor did he even offer me a bottle of wine or take me out. I went to a reception where there were lots of people from California—Leon Panetta, Nancy Pelosi, Barbara Boxer and others."

Both Health and Human Services Director Shalala and he were surprised that the national story about the Dietary Guidelines came out as the government advising that alcohol is good for you, says Dr. Lee. "I think you have to give the Wine Institute either credit or whatever you want to call it for doing a thorough job of informing the media and pitching it the way they did" he says.

According to Jim Harrell, former deputy director of the Office of Disease Prevention & Health Promotion, the Wine Institute put "tremendous pressure" on the staff supporting guidelines committee work.

Interviews with staff reveal that Wine Institute officials intensified pressure after apparently learning that the staff had moved the committee's first sentence about alcohol "enhancing meals" lower in the text for fear that beginning on too positive a note might be misleading.

Last April, Wine Institute representatives met with an official of the Bureau of Alcohol, Tobacco and Firearms, which regulates labeling and advertising of alcoholic beverages, to talk about what new labeling might be acceptable.

Dr. Lee says it is "unlikely" that misinterpretation of the guideline will lead to increased alcohol consumption and abuse. "It's clearly a possibility," he says, "but not a likely consequence because I think abuse is much more complicated than that."

Dr. Charles Lieber isn't so certain. Director of Alcohol Research and Treatment at the Bronx Veterans Affairs Medical Center in New York, Dr. Lieber is the alcohol expert credited with structuring the 1990 alcohol guideline.

"My stance is the same as it was 12 years ago," says Dr. Lieber. "You have to be extremely careful about giving advice in general to a population about alcohol. It is different from a doctor giving advice to an individual patient. I believe that it's important to have an alcohol specialist on the committee."

"We didn't need to have the guideline say that people enjoy drinking. Including that sentence about alcohol enhancing meals wasn't very revealing or educational for the public. And if I'd been on the committee, I would have been upset if the administration took out the phrase, 'drug effects of alcohol.'"

Dr. Lee and everyone else involved in the guideline process agree that if in five years statistics reveal alcohol abuse to be on the rise, the next Dietary Guidelines committee will have to revisit their drinking advice.

Dr. Cutberto Garza, a committee member who is chairman of the Food and Nutrition Board of the National Academy of Medicine, doesn't want the government to wait that long.

"We didn't endorse moderate drinking for health, but that's the story that's out

there," he says. "We can flail against the way this came out, but I lay the blame on the government. Prevention is only one percent of the healthcare budget, but the government put out the guidelines and hasn't done a thing to correct the perception people have of the alcohol guideline. I look to the government to be assertive about promoting what it really says."

IF YOU DRINK ALCOHOLIC BEVERAGES, DO SO IN MODERATION

Alcoholic beverages supply calories but few or no nutrients. The alcohol in these beverages has effects that are harmful when consumed in excess. These effects of alcohol may alter judgment and can lead to dependency and a great many other serious health problems. Alcoholic beverages have been used to enhance the enjoyment of meals by many societies throughout human history. If adults choose to drink alcoholic beverages, they should consume them only in moderation. (box 16)

Current evidence suggests that moderate drinking is associated with a lower risk for coronary heart disease in some individuals. However, higher levels of alcohol intake raise the risk for high blood pressure, stroke, heart disease, certain cancers, accidents, violence, suicides, birth defects, and overall mortality (deaths). Too much alcohol may cause cirrhosis of the liver, inflammation of the pancreas, and damage to the brain and heart. Heavy drinkers also are at risk of malnutrition because alcohol contains calories that may substitute for those in more nutritious foods.

WHAT IS MODERATION?

Moderation is defined as no more than one drink per day for women and no more than two drinks per day for men.

Counts as a drink—

- 12 ounces of regular beer (150 calories)
- 5 ounces of wine (100 calories)
- 1.5 ounces of 80-proof distilled spirits (100 calories)

WHO SHOULD NOT DRINK?

Some people should not drink alcoholic beverages at all. These include:

- Children and adolescents.

Individuals of any age who cannot restrict their drinking to moderate levels. This is a special concern for recovering alcoholics and people whose family members have alcohol problems.

Women who are trying to conceive or who are pregnant. Major birth defects, including fetal alcohol syndrome, have been attributed to heavy drinking by the mother while pregnant. While there is no conclusive evidence that an occasional drink is harmful to the fetus or to the pregnant woman, a safe level of alcohol intake during pregnancy has not been established.

Individuals who plan to drive or take part in activities that require attention or skill. Most people retain some alcohol in the blood up to 2-3 hours after a single drink.

Individuals using prescription and over-the-counter medications. Alcohol may alter the effectiveness or toxicity of medicines. Also, some medications may increase blood alcohol levels or increase the adverse effect of alcohol on the brain.

ADVICE FOR TODAY

If you drink alcoholic beverages, do so in moderation, with meals, and when consumption does not put you or others at risk.

A PRIZE FOR THE WINE INSTITUTE (By Lawrence Wallack)

The Wine Institute has been nominated for a prize it would rather not win. In a recent editorial, the San Francisco Examiner nominated that trade organization for the newspaper's annual Emperor Norton Prize, "to draw public attention to crack-brained

schemes, dingbat proposals and stupendous nuttiness in matters of public policy."

What Wine Institute scheme has warranted such a dubious accolade? In the interest of public education, the Wine Institute wants to place a label on wine bottles alerting consumers to the health benefits of moderate alcohol consumption.

While I support the Wine Institute for this award and praise the Examiner for its courage and insight, I still want to know what made the Wine Institute's scheme possible. How did the irrelevant sentence "alcoholic beverages have been used to enhance the enjoyment of meals by many societies throughout human history" make it into the final version of the federal dietary guidelines, the cornerstone of national nutrition policy? No parallel friendly sentence accompanies any other guideline in the federal document. And while we're at it, what about the final deletion of the phrase "drug effects of alcohol," which the guidelines advisory committee used twice in its proposed document? Certainly this must be private industry propaganda, not public interest education.

Educating the public about the role of alcohol in our society is an important mission and should be undertaken by those without a vested interest. The alcoholic beverage industry already spends several billion dollars every year educating youth and adults alike about the "benefits" of their product. Sophistication, wit, sexiness, peer acceptance, fitness, and many other implied benefits are communicated endlessly to the consumer. Alcohol advertising is almost, but not quite, pervasive enough to make people forget that alcohol is a drug, that alcohol is the number one cause of potential years of life lost in this country, that alcohol causes about 100,000 deaths every year.

Public health educators are struggling against great odds to level the playing field for the consumer seeking information about this very significant risk factor. They want an information environment where people can get a realistic view of the role of alcohol in society. The Wine Institute wants to tilt the field so it looks like one of San Francisco's hills.

From a public health perspective, the proposed Wine Institute label would contribute to the high level of misinformation about alcohol that clogs our environment. None of the studies I have seen that suggest a health benefit from moderate drinking recommends that anyone start drinking or increase their consumption. The Dietary Guidelines for Americans, in fact, states that moderate drinking is associated with a lower risk for coronary heart disease "in some individuals."

Of course, researchers conducting these studies would be the first to say that "association" is not "causation." Indeed, the usual recommendation is to seek advice from a physician—a medical approach that provides patients with information particular to their situation. This is especially important when the change is one that can have widely different effects on different individuals. Advice to a population is a public health matter and is not a good means for communicating the limited or special case benefits of a drug, especially when that drug is addictive.

So, the Wine Institute of San Francisco may not want the Emperor Norton Prize, but if it is somehow successful in its efforts to get the proposed label approved, it will certainly deserve the award, and the notoriety that comes with it.

By Mr. ENZI (for himself and Mr. THOMAS):

S. 435. A bill to amend the Internal Revenue Code of 1986 to allow the Secretary of the Treasury to waive the

contemporaneous substantiation requirement for deduction of charitable contributions in certain cases; to the Committee on Finance.

THE EQUITY IN CHARITABLE GIVING ACT

• Mr. ENZI. Mr. President, I rise today to introduce a bill that will help reform America's tax system. The bill I introduce today is designed to advance the important goal of encouraging charitable contributions. With this proposal, I add my voice to the Republican chorus in the Senate and House of Representatives calling for reform of our tax system to make it fairer and less burdensome for all Americans.

The bill I introduce today is the Equity in Charitable Giving Act. This legislation, which is also cosponsored by the senior Senator from Wyoming, Senator THOMAS, would provide relief for taxpayers who have had legitimate charitable contributions disallowed by the IRS because of a technical change Congress made to the Tax Code in 1993. In that year, a change was made to section 170 of the Internal Revenue Code dealing with the documentation required by taxpayers to claim charitable contributions. The new change required taxpayers to have a "contemporaneous written acknowledgment" of their contributions for all contributions they claimed over \$250 in a taxable year.

While the purpose of this change was understandable, the rule espoused was too broad and it has in turn yielded some harsh results. Some taxpayers, unaware of the change in the law, did not receive the necessary acknowledgment before they filed their taxes. This oversight is understandable. For example, a taxpayer who filed his taxes in February may not have received the necessary documentation from the affected charities prior to filing his taxes. Under the current rule, any contributions over \$250 would be disallowed even if he received the proper documentation before his taxes were due on April 15th. As a result of the very narrow definition of "contemporaneous" found in section 170(f)(8)(C), a number of taxpayers have had their otherwise lawful charitable contributions disallowed by the Internal Revenue Service. This punitive rule elevates form over substance and places an unwarranted burden on those generous taxpayers desiring to make their communities better places in which to live.

The Equity in Charitable Giving Act, which I introduce today, has one simple purpose: to provide tax relief for those taxpayers who fell through the cracks when the law on charitable contributions was changed. While this bill would still require taxpayers to receive the proper documentation from the charitable organization, taxpayers would have a longer time to file this written acknowledgment with the Internal Revenue Service. In order to take advantage of this flexibility, taxpayers would also have to demonstrate

to the satisfaction of the Secretary of the Treasury that no goods or services were received from the tax exempt organization in return for their contributions. While this is only a small step in the larger journey of reforming America's Tax Code, it furthers the important objective of charitable giving by ensuring that taxpayers receive the proper tax treatment for their gifts.

Mr. President, the time has come to provide meaningful tax relief and reform for the American people. The Republican-led Congress has taken important and meaningful steps in that direction over the past two years with the Taxpayer Relief Act of 1997 and the Internal Revenue Service Reform Act of 1998. We must continue this important endeavor by continuing to restructure our tax policy to respect marriage and families, encourage investment and savings, reward charitable giving, and promote job creation and entrepreneurship. I urge my colleagues to join me in this endeavor.●

By Mr. BURNS (for himself and Mr. BAUCUS):

S. 438. A bill to provide for the settlement of the water rights claims of the Chippewa Cree Tribe of the Rocky Boy's Reservation, and for other purposes; to the Committee on Energy and Natural Resources.

WATER RIGHTS SETTLEMENT ACT OF 1999

Mr. BURNS. Mr. President, today I am pleased to be jointly introducing with my fellow Senator from Montana, Senator BAUCUS, a bill to settle the claims and define the water rights of the Chippewa Cree Tribe of the Rocky Boy's Reservation. This bill is the product of many years of work and negotiations in our state and will result in the federal government sanctioning the water rights agreement that has been adopted by the Montana State Legislature. This settlement represents a textbook example of how State and Tribal governments, together with off-Reservation local representatives, can sit down and resolve their differences. I am also pleased that local ranchers were involved in every step of discussions, and that their water rights are fully protected under this settlement.

The state agreement quantifies the Tribe's on-reservation water rights and establishes a water administration system carefully designed to have minimal adverse impacts on downstream, non-tribal water users. In fact, our goal was to benefit downstream water users wherever possible. This is quite an accomplishment in an area of Montana with a scarce water supply. The Rocky Boy's Reservation is located in an arid area with an average annual rainfall of 12 inches or less. Fortunately, the annual runoff from the Bearpaw Mountains, with a annual snowpack of over 30 inches, contributes to a significant spring runoff. Effective use of that runoff through enlarged or new storage facilities on the Reservation is a critical part of the settlement package which this bill represents. Accordingly, \$25

million in the budget of the Bureau of Reclamation is earmarked for specified on-reservation water development projects. To meet both the future water and economic needs of the Reservation, the bill contains an allocation of 10,000 acre-feet of storage water to the Tribe in Tiber Reservoir, a federal storage facility. To resolve future disputes, this settlement established a board composed of Tribal and off-Reservation representatives.

In addition, the bill authorizes the initial steps of a more detailed process of securing long-term drinking water supplies for the Chippewa Cree Tribe, a process that is vital to the survival of the Tribe. Specifically, the bill authorizes the following: (1) \$15 million in seed money toward the cost of a future project to import more drinking water to the Reservation. (2) \$1 million for a feasibility study by the Secretary of the Interior to identify water resources available to meet the Tribe's drinkwater needs. (3) \$3 million to evaluate water resources over a broader area of North Central Montana that contains two other Indian Reservations with water rights that have not yet been established.

In closing, I believe that the Chippewa Cree Tribe of the Rocky Boy's Reservation Indian Reserved Water Rights Settlement Act is a historic agreement. It is a tribute to the Governor of Montana, Marc Racicot; the Water Rights Compact Commission; the Chippewa Cree Tribe chairman, Bert Cocoran; the Tribal negotiating team; Interior Secretary's Counselor, David Hayes; the Federal negotiating team; and the water users on the Big Sandy and Beaver Creeks in the Montana Milk River valley. This is truly a local solution that takes into account the needs and sovereign rights of each party. Just as the mentioned parties have worked closely together to get us to the submission of this bill today, I intend to work closely with all members of Congress to insure passage of this important bill.

● Mr. BAUCUS. Mr. President, I am pleased to join with my colleague from the State of Montana on the introduction of the Chippewa Cree Tribe of the Rocky Boy's Reservation Indian Reserved Water Rights Settlement Act. The legislation ratifies the Compact approved by the State and the Tribe in 1997. Senator BURNS and I jointly introduced this legislation in the 105th Congress and had the 2nd Session of that Congress lasted a few more weeks, I believe the bill would have been approved by the Senate. The introduction of this bill is the culmination of 16 years of extensive technical studies and six years of rather intensive negotiations in our state involving the Chippewa Cree Tribe, the Montana state government, off-Reservation county and municipal governments in north-central Montana, local ranchers, and the United States Departments of Justice and Interior.

The 122,000-acre Rocky Boy's Reservation sits west of Havre, Montana

on several tributaries of the Milk River on what was formerly the Fort Assiniboine Military Reserve. Unfortunately, the portion of the land reserved for the Chippewa Cree is rough and arid. Without irrigation, much of the land is not suitable for farming. Recent studies have demonstrated that the Reservation could not sustain the membership of the Chippewa Cree Tribe as a permanent homeland without an infusion of additional water. The development of a viable reservation economy calls for more water for drinking purposes, as well as for agriculture and other municipal uses. In 1982, acting in its fiduciary capacity as trustee for the Tribe, the United States filed a claim for the water rights of the Chippewa Cree in the State of Montana general stream adjudication. Were it not for the negotiated settlement represented by this legislation, divisive and costly litigation would be pending between the State, the Tribe, the United States and non-Indian ranchers for many years to come. Fortunately, in 1979, the Montana legislature articulated a policy in favor of negotiation and established the Montana Reserved Water Rights Compact Commission to negotiate "compacts for the equitable division and apportionment of waters between the state and its people and several Indian tribes claiming reserved water rights within the state."

From the initial meeting in 1992, to the conclusion of an agreed on water rights Compact in 1997, the State, the Federal Government and the Tribe acted in good faith and worked together to explore options. This culminated in passage of a resolution by the Chippewa Cree Tribal Council to ratify the Compact on January 9, 1997. Following overwhelming approval by the Montana Legislature and appropriation of funds for implementation, Governor Marc Racicot signed the Compact into state law on April 14, 1997. Subsequent negotiation, in which staff from my office assisted the State and Tribe, resulted in approval by the United States Departments of the Interior and Justice and drafting of this bill by the three parties.

The litigation filed in state water court in 1982 is stayed pending the outcome of this bill. Once passed, the United States, the Tribe and the State of Montana will petition the Montana Water Court to enter a decree reflecting the water rights of the Tribe.

I urge my colleagues to support this very positive legislation and work with Senator BURNS and Montana's Congressman HILL, who has simultaneously introduced this bill in the House, to secure passage of the Settlement Act this year.

Mr. President, I look forward to expeditious passage of this historic settlement.●

ADDITIONAL COSPONSORS

S. 4

At the request of Mr. WARNER, the name of the Senator from North Carolina (Mr. HELMS) was added as a cosponsor of S. 4, a bill to improve pay and retirement equity for members of the Armed Forces; and for other purposes.

S. 13

At the request of Mr. SESSIONS, the name of the Senator from Arkansas (Mr. HUTCHINSON) was added as a cosponsor of S. 13, a bill to amend the Internal Revenue Code of 1986 to provide additional tax incentives for education.

S. 38

At the request of Mr. CAMPBELL, the name of the Senator from Montana (Mr. BURNS) was added as a cosponsor of S. 38, a bill to amend the Internal Revenue Code of 1986 to phase out the estate and gift taxes over a 10-year period.

S. 67

At the request of Mr. MOYNIHAN, the names of the Senator from Florida (Mr. GRAHAM), the Senator from Maryland (Mr. SARBANES), and the Senator from California (Mrs. BOXER) were added as cosponsors of S. 67, a bill to designate the headquarters building of the Department of Housing and Urban Development in Washington, District of Columbia, as the "Robert C. Weaver Federal Building."

S. 87

At the request of Mr. BUNNING, the name of the Senator from Arizona (Mr. KYL) was added as a cosponsor of S. 87, a bill to amend the Internal Revenue Code of 1986 to provide that the exclusion from gross income for foster care payments shall also apply to payments by qualifying placement agencies, and for other purposes.

S. 192

At the request of Mr. KENNEDY, the name of the Senator from Hawaii (Mr. INOUE) was added as a cosponsor of S. 192, a bill to amend the Fair Labor Standards Act of 1938 to increase the Federal minimum wage.

S. 223

At the request of Mr. LAUTENBERG, the name of the Senator from Rhode Island (Mr. REED) was added as a cosponsor of S. 223, a bill to help communities modernize public school facilities, and for other purposes.

S. 263

At the request of Mr. ROTH, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. 263, a bill to amend the Social Security Act to establish the Personal Retirement Accounts Program.

S. 270

At the request of Mr. WARNER, the name of the Senator from North Carolina (Mr. HELMS) was added as a cosponsor of S. 270, a bill to improve pay and retirement equity for members of the Armed Forces, and for other purposes.

S. 313

At the request of Mr. SHELBY, the names of the Senator from Mississippi

(Mr. COCHRAN) and the Senator from Georgia (Mr. COVERDELL) were added as cosponsors of S. 313, a bill to repeal the Public Utility Holding Company Act of 1935, to enact the Public Utility Holding Company Act of 1999, and for other purposes.

S. 322

At the request of Mr. CAMPBELL, the names of the Senator from Missouri (Mr. ASHCROFT) and the Senator from Illinois (Mr. DURBIN) were added as cosponsors of S. 322, a bill to amend title 4, United States Code, to add the Martin Luther King Jr. holiday to the list of days on which the flag should especially be displayed.

S. 331

At the request of Mr. JEFFORDS, the names of the Senator from Oregon (Mr. SMITH) and the Senator from Arkansas (Mrs. LINCOLN) were added as cosponsors of S. 331, a bill to amend the Social Security Act to expand the availability of health care coverage for working individuals with disabilities, to establish a Ticket to Work and Self-Sufficiency Program in the Social Security Administration to provide such individuals with meaningful opportunities to work, and for other purposes.

S. 335

At the request of Ms. COLLINS, the name of the Senator from Alaska (Mr. STEVENS) was added as a cosponsor of S. 335, a bill to amend Chapter 30 of title 39, United States Code, to provide for the nonmailability of certain deceptive matter relating to games of chance, administrative procedures, orders, and civil penalties relating to such matter, and for other purposes.

S. 337

At the request of Mr. HUTCHINSON, the name of the Senator from New Hampshire (Mr. GREGG) was added as a cosponsor of S. 337, a bill to preserve the balance of rights between employers, employees, and labor organizations which is fundamental to our system of collective bargaining while preserving the rights of workers to organize, or otherwise engage in concerted activities protected under the National Labor Relations Act.

S. 345

At the request of Mr. ALLARD, the names of the Senator from New Hampshire (Mr. SMITH), the Senator from Iowa (Mr. HARKIN), and the Senator from Pennsylvania (Mr. SANTORUM) were added as cosponsors of S. 345, a bill to amend the Animal Welfare Act to remove the limitation that permits interstate movement of live birds, for the purpose of fighting, to States in which animal fighting is lawful.

S. 346

At the request of Mrs. HUTCHISON, the names of the Senator from Kansas (Mr. BROWNBACK), the Senator from Wyoming (Mr. ENZI), and the Senator from California (Mrs. FEINSTEIN) were added as cosponsors of S. 346, a bill to amend title XIX of the Social Security Act to prohibit the recoupment of funds recovered by States from one or more tobacco manufacturers.

S. 352

At the request of Mr. THOMAS, the name of the Senator from Arizona (Mr. KYL) was added as a cosponsor of S. 352, a bill to amend the National Environmental Policy Act of 1969 to require that Federal agencies consult with State agencies and county and local governments on environmental impact statements.

S. 393

At the request of Mr. MCCAIN, the name of the Senator from Missouri (Mr. ASHCROFT) was added as a cosponsor of S. 393, a bill to provide Internet access to certain Congressional documents, including certain Congressional Research Service publications, Senate lobbying and gift report filings, and Senate and Joint Committee documents.

S. 395

At the request of Mr. ROCKFELLER, the names of the Senator from Indiana (Mr. BAYH), the Senator from Pennsylvania (Mr. SANTORUM), and the Senator from Arkansas (Mrs. LINCOLN) were added as cosponsors of S. 395, a bill to ensure that the volume of steel imports does not exceed the average monthly volume of such imports during the 36-month period preceding July 1997.

S. 403

At the request of Mr. ALLARD, the name of the Senator from Wyoming (Mr. ENZI) was added as a cosponsor of S. 403, a bill to prohibit implementation of "Know Your Customer" regulations by the Federal banking agencies.

S. 414

At the request of Mr. GRASSLEY, the names of the Senator from Minnesota (Mr. GRAMS) and the Senator from California (Mrs. FEINSTEIN) were added as cosponsors of S. 414, a bill to amend the Internal Revenue Code of 1986 to provide a 5-year extension of the credit for producing electricity from wind, and for other purposes.

SENATE CONCURRENT RESOLUTION 5

At the request of Mr. BROWNBACK, the names of the Senator from Texas (Mr. GRAMM), the Senator from Pennsylvania (Mr. SANTORUM), the Senator from Alaska (Mr. MURKOWSKI), the Senator from Massachusetts (Mr. KERRY), the Senator from North Dakota (Mr. DORGAN), the Senator from Maryland (Ms. MIKULSKI), the Senator from Georgia (Mr. CLELAND), the Senator from Pennsylvania (Mr. SPECTER), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Indiana (Mr. LUGAR), the Senator from Louisiana (Mr. BREAU), and the Senator from Maryland (Mr. SARBANES) were added as cosponsors of Senate Concurrent Resolution 5, a concurrent resolution expressing congressional opposition to the unilateral declaration of a Palestinian state and urging the President to assert clearly United States opposition to such a unilateral declaration of statehood.

SENATE CONCURRENT RESOLUTION 10

At the request of Mr. SARBANES, the name of the Senator from Virginia (Mr.

ROBB) was added as a cosponsor of Senate Concurrent Resolution 10, a concurrent resolution expressing the sense of Congress that there should continue to be parity between the adjustments in the compensation of members of the uniformed services and the adjustments in the compensation of civilian employees of the United States.

SENATE RESOLUTION 19

At the request of Mr. SPECTER, the names of the Senator from Tennessee (Mr. FRIST), the Senator from Florida (Mr. MACK), and the Senator from Pennsylvania (Mr. SANTORUM) were added as cosponsors of Senate Resolution 19, a resolution to express the sense of the Senate that the Federal investment in biomedical research should be increased by \$2,000,000 in fiscal year 2000.

SENATE RESOLUTION 29

At the request of Mr. ROBB, the names of the Senator from Georgia (Mr. CLELAND), the Senator from Mississippi (Mr. COCHRAN), the Senator from California (Mrs. FEINSTEIN), the Senator from New Jersey (Mr. LAUTENBERG), the Senator from Maryland (Mr. SARBANES), and the Senator from Alabama (Mr. SESSIONS) were added as cosponsors of Senate Resolution 29, a resolution to designate the week of May 2, 1999, as "National Correctional Officers and Employees Week."

SENATE RESOLUTION 45

At the request of Mr. HUTCHINSON, the names of the Senator from Wisconsin (Mr. KOHL) and the Senator from Massachusetts (Mr. KENNEDY) were added as cosponsors of Senate Resolution 45, a resolution expressing the sense of the Senate regarding the human rights situation in the People's Republic of China.

SENATE RESOLUTION 47

At the request of Mr. MURKOWSKI, the names of the Senator from New Hampshire (Mr. GREGG) and the Senator from Minnesota (Mr. GRAMS) were added as cosponsors of Senate Resolution 47, a resolution designating the week of March 21 through March 27, 1999, as "National Inhalants and Poisons Awareness Week."

AMENDMENT NO. 6

At the request of Mr. CLELAND the name of the Senate from Vermont (Mr. JEFFORDS) was added as a cosponsor of amendment No. 6 intended to be proposed to S. 4, a bill to improve pay and retirement equity for members of the Armed Forces; and for other purposes.

SENATE CONCURRENT RESOLUTION 12—REQUESTING THAT THE UNITED STATES POSTAL SERVICE ISSUE A COMMEMORATIVE POSTAGE STAMP HONORING THE 100TH ANNIVERSARY OF THE FOUNDING OF THE VETERANS OF FOREIGN WARS OF THE UNITED STATES

Ms. COLLINS (for herself, Mr. INOUE, Mr. NICKLES, Mr. ROTH, Mr. FRIST, Mr. JEFFORDS, Mr. ROCKE-

FELLER, Mr. TORRICELLI, Mr. KERRY, Mr. DEWINE, Mr. COVERDELL, Mr. VOINOVICH, Mr. SHELBY, Mr. HELMS, Mr. ROBB, Mr. CLELAND, Mr. CONRAD, Mr. DASCHLE, Mr. GRASSLEY, Mr. ABRAHAM, Mr. AKAKA, Mr. ALLARD, Mr. BAUCUS, Mr. BROWNBACK, Mr. BRYAN, Mr. CHAFEE, Mr. CRAIG, Mr. DODD, Mr. DOMENICI, Mr. ENZI, Mr. FEINGOLD, Mr. FITZGERALD, Mr. GORTON, Mr. GRAMM, Mr. GREGG, Ms. LANDRIEU, Mr. STEVENS, Mr. THURMOND, Mr. WELLSTONE, Mr. SPECTER, Mr. ASHCROFT, Mr. DURBIN, Mr. WARNER, Mr. HAGEL, Mr. REID, Mr. INHOFE, Mrs. BOXER, Mr. BIDEN, Mr. GRAMS, Mr. LOTT, Mr. KENNEDY, Mr. SESSIONS, Mr. LAUTENBERG, Ms. SNOWE, Mr. WYDEN, Mr. HATCH, Mr. CRAPO, and Mrs. LINCOLN) submitted the following concurrent resolution; which was referred to the Committee on Governmental affairs:

S. CON. RES. 12

Whereas the Veterans of Foreign Wars of the United States (hereinafter in this resolution referred to as the "VFW"), which was formed by veterans of the Spanish-American War and the Philippine Insurrection to help secure rights and benefits for their service, will be celebrating its 100th anniversary in 1999;

Whereas members of the VFW have fought, bled, and died in every war, conflict, police action, and military intervention in which the United States has engaged during this century;

Whereas, over its history, the VFW has ably represented the interests of veterans in Congress and State Legislatures across the Nation and established a network of trained service officers who, at no charge, have helped millions of veterans and their dependents to secure the education, disability compensation, pension, and health care benefits they are rightfully entitled to receive as a result of the military service performed by those veterans;

Whereas the VFW has also been deeply involved in national education projects, awarding nearly \$2,700,000 in scholarships annually, as well as countless community projects initiated by its 10,000 posts; and

Whereas the United States Postal Service has issued commemorative postage stamps honoring the VFW's 50th and 75th anniversaries, respectively: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the Congress requests that the United States Postal Service issue a commemorative postage stamp in 1999 in honor of the 100th anniversary of the founding of the Veterans of Foreign Wars of the United States.

Ms. COLLINS. Mr. President, on behalf of my principal cosponsor, Senator INOUE, and myself, I am proud to submit a resolution requesting that the United States Postal Service issue a commemorative postage stamp honoring the 100th anniversary of the founding of the Veterans of Foreign Wars of the United States ("VFW"), which will be celebrating its centennial in September of this year. We are pleased to be joined by 56 of our colleagues in support of this measure.

As a member of the VFW Ladies Auxiliary post in Caribou, ME, and as the daughter of a World War II veteran who was wounded twice in combat, I am honored to lead the charge for this worthwhile legislation.

This measure is intended to pay special tribute to all members of the VFW, past and present, who pledged their honor and their lives to defend the United States and who fought bravely in foreign lands so that we as a nation might live in freedom. These are our true American patriots, for they have demonstrated a profound commitment to the principles of our Founding Fathers not in mere words, but in their deeds. When their country called, they answered, and they fought to keep the American way of life safe and secure.

As an organization, the Veterans of Foreign Wars traces its roots back to 1899. Veterans of the Spanish-American War and the Philippine Insurrection returned home from intense fighting abroad and were greeted with a hero's welcome. Over time, the memory of wartime sacrifice faded in the minds of many Americans, but not for the men who carried with them permanent battle scars, prolonged illnesses, and other grim reminders of war.

Absent a single Government agency possessing responsibility for veterans, and facing neglect, these brave men banded together to establish a handful of local organizations intended to help secure medical care and pensions for their military service. These original foreign service organizations, located in Ohio, Colorado, and Pennsylvania, gradually grew in number and influence and in 1914 came to be known collectively as the Veterans of Foreign Wars of the United States.

Mr. President, it was several years later, on June 24, 1921, when the VFW's chapter in my home State of Maine was chartered. Today, there are 84 VFW posts in Maine to which over 16,000 veterans belong.

Those small groups of veterans who organized in 1899 have today grown to over 2 million strong. VFW members have fought and died in every war, conflict, and military intervention in which the United States has been engaged during this century. From factory workers to occupants of the White House, the VFW members and its Ladies Auxiliary have come to represent a cross section of American society, and each new generation of veterans has brought renewed strength and dedication to the VFW's founding principles.

As the 21st century approaches, the VFW's members continue to live by the organization's creed of "Honor the dead by helping the living." They do so by representing the interests of veterans across the Nation through an established network of trained service officers who, at no charge, help millions of veterans and their dependents secure the educational benefits, disability compensation, pension, and health care services that they are rightfully entitled to as a result of their distinguished service to our Country.

The VFW also has a long and proud tradition of supporting troops deployed overseas. From letter-writing campaigns in World War I, to "Welcome

home" rallies after the Persian Gulf war, to providing care packages, to USO shows and, more recently, to providing free telephone cards enabling servicemen and women to call loved ones from their posts in Bosnia, the VFW continues to provide comfort and a touch of home to those men and women stationed far away.

The endeavors of the VFW, however, go well beyond the realm of "veterans helping veterans." In fact, service to the broader American community has always been a pillar of the VFW foundation.

Through the VFW's Community Service Program, members of its 10,000 posts serve local communities, States, and the Nation with all of the integrity, ingenuity, and loyalty that have characterized the organization since its inception. During the past program year, for example, the VFW, working side by side with its Ladies Auxiliary, contributed nearly 13 million hours of volunteer service and donated nearly \$55 million to a variety of community projects. Commitment to worthy causes such as the March of Dimes, the Keep America Beautiful campaign, and many other volunteer organizations also continues to be a hallmark of service among VFW members.

The promotion of patriotism is another hallmark of the VFW's history. Since the beginning of its Americanization Committee in 1921, the VFW has actively taught traditional values to Americans both young and old. Today, teaching respect for the flag is a primary activity, as is educating children in the classroom about the critical role that veterans have played throughout our history.

The interests of today's youth are also met by VFW posts around the Nation through active support for drug prevention programs, the Boy Scouts of America, the Junior Reserve Officer Training Corps, and sponsorship of competitors in both the Junior and Special Olympics. The VFW has also recently commemorated 50 years of helping high school students attend college. Because of VFW support, in fact, America's young people annually receive more than \$2.6 million in scholarships.

The VFW deserves public national recognition for these efforts and for its many other contributions to improving the lives of our Nation's veterans and enhancing American society as a whole. Although as a country we can never fully repay the debt we owe to these brave men and women, we can certainly strive to honor the vision which led them into battle to protect the principles America holds dear.

We must uphold the memories of their heroic acts with respect, with reverence, and with our heartfelt admiration. By requesting that the U.S. Postal Service issue a commemorative stamp honoring the VFW's 100th anniversary, as was done for its 50th and 75th anniversaries, we can take a small step toward remembering their service

and showing our deep appreciation for their unwavering commitment to our country, both in peacetime and in times of conflict. This, I believe, would be a much-deserved tribute to the VFW and its more than 2 million veterans of overseas service.

Mr. President, I am very pleased to note that you are a cosponsor of this important measure.

• Mr. ABRAHAM. Mr. President, the resolution before the Senate today requesting that the United States Postal Service issue a commemorative postage stamp for the 100th anniversary of the Veterans of Foreign Wars of the United States will honor our veterans who have so courageously fought in every war, conflict, police action, and military intervention since the Spanish-American War in 1899.

Members of the VFW have helped millions of veterans secure the education, disability compensation, pension, and health care benefits that veterans are rightfully entitled to receive as a result of their military service.

With over 2 million members the VFW has also been deeply involved in community service projects designed to encourage service in the local community benefiting education, the environment, health services, civic pride, and community betterment. For example, the VFW's Voice of Democracy essay competition provides over \$2.7 million in college scholarships annually to promising young students. The VFW's Safety Program conducts programs in home, auto, and bicycle safety, as well as programs dealing with drug awareness and substance abuse. Clearly, the VFW with over 10,000 posts continues to make valuable and significant contributions to our communities across the country.

In celebration of the 100th anniversary of the VFW I urge my colleagues to support this resolution to commemorate our veterans for their service. ●

AMENDMENTS SUBMITTED

SOLDIERS', SALIORS', AIRMEN'S, AND MARINES' BILL OF RIGHTS ACT OF 1999

ROBB AMENDMENT NO. 7

(Ordered to lie on the table.)

Mr. ROBB submitted an amendment intended to be proposed by him to the bill (S. 4) to improve pay and retirement equity for members of the Armed Forces; and for other purposes; as follows:

On page 28, between lines 8 and 9, insert the following:

SEC. 104. AVIATION CAREER OFFICER SPECIAL PAY.

(a) REPEAL OF EXPIRATION OF AUTHORITY.—Subsection (a) of section 301b of title 37, United States Code, is amended by striking "during the period beginning on January 1, 1989, and ending on December 31, 1999,".

(b) REPEAL OF REQUIREMENT FOR SERVICE IN CRITICAL AVIATION SPECIALTY AND LIMITA-

TION TO CERTAIN YEARS OF CAREER AVIATION SERVICE.—Subsection (b) of such section is amended—

(1) by striking paragraphs (2) and (5);

(2) in paragraph (3), by striking "grade O-6" and inserting "grade O-7";

(3) by inserting "and" at the end of paragraph (4); and

(4) by redesignating paragraphs (3), (4), and (6) as paragraphs (2), (3), and (4), respectively.

(c) REPEAL OF LOWER ALTERNATIVE AMOUNT FOR AGREEMENT TO SERVE FOR 3 OR FEWER YEARS.—Subsection (c) of such section is amended by striking "than—" and all that follows and inserting "than \$25,000 for each year covered by the written agreement to remain on active duty.".

(d) PRORATION AUTHORITY FOR COVERAGE OF INCREASED PERIOD OF ELIGIBILITY.—Subsection (d) of such section is amended by striking "14 years of commissioned service" and inserting "25 years of aviation service".

(e) TERMINOLOGY.—Such section is further amended—

(1) in subsection (f), by striking "A retention bonus" and inserting "Any amount"; and

(2) in subsection (i)(1), by striking "retention bonuses" in the first sentence and inserting "special pay under this section".

(f) REPEAL OF CONTENT REQUIREMENTS FOR ANNUAL REPORT.—Subsection (i)(1) of such section is further amended by striking the second sentence.

(g) CONFORMING AMENDMENTS.—Such section if further amended—

(1) in subsection (g)(3), by striking the second sentence; and

(2) in subsection (j)—

(A) by striking paragraphs (2) and (3); and

(B) by redesignating paragraph (4) as paragraph (2).

NOTICES OF HEARINGS

COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Mr. JEFFORDS. Mr. President, I would like to announce for information of the Senate and the public that a hearing of the Senate Committee on Health, Education, Labor, and Pensions will be held on Tuesday, February 23, 1999, 8:30 a.m., in SD-430 of the Senate Dirksen Building. The subject of the hearing is Education Reform: Governors' Views. For further information, please call the committee, 202/224-5375.

COMMITTEE ON INDIAN AFFAIRS

Mr. CAMPBELL. Mr. President, I would like to announce that the Senate Committee on Indian Affairs will meet during the session of the Senate on Wednesday, February 24, 1999, at 9 a.m., to conduct a hearing on the President's budget request for FY2000 for Indian programs. The hearing will be held in room 485 of the Russell Senate Office Building. Those wishing additional information should contact the Committee on Indian Affairs at 202/224-2251.

COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Mr. JEFFORDS. Mr. President, I would like to announce for information of the Senate and the public that a hearing of the Senate Committee on Health, Education, Labor, and Pensions will be held on Wednesday, February 24, 1999, 9:30 a.m., in SD-430 of

the Senate Dirksen Building. The subject of the hearing is Privacy Under a Microscope: Balancing the Needs of Research and Confidentiality. For further information, please call the committee, 202/224-5375.

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. LUGAR. Mr. President, I would like to announce that the Senate Committee on Agriculture, Nutrition, and Forestry will meet on Wednesday, February 24, 1999, in SR-328A at 9:30 a.m. The purpose of this meeting will be to review the proposed FY2000 budget for the U.S. Department of Agriculture.

COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Mr. JEFFORDS. Mr. President, I would like to announce for information of the Senate and the public that a hearing of the Subcommittee on Public Health, Senate Committee on Health, Education, Labor, and Pensions will be held on Thursday, February 25, 1999, 9:30 a.m., in SD-430 of the Senate Dirksen Building. The subject of the hearing is Antimicrobial Resistance: Solutions to a Growing Public Health Threat. For further information, please call the committee, 202/224-5375.

COMMITTEE ON INDIAN AFFAIRS

Mr. CAMPBELL. Mr. President, I would like to announce that the Senate Committee on Indian Affairs will meet during the session of the Senate on Wednesday, March 3, 1999, at 9:30 a.m., to conduct a joint hearing with the Senate Committee on Energy and Natural Resources on American Indian trust management practices in the Department of the Interior. The hearing will be held in room 366 of the Dirksen Senate Office Building. Those wishing additional information should contact the Committee on Indian Affairs at 202/224-2251.

COMMITTEE ON NATURAL RESOURCES

Mr. SMITH of New Hampshire. Mr. President, I wish to announce that an oversight hearing has been scheduled before the Subcommittee on Water and Power of the Committee on Energy and Natural Resources. The purpose of this hearing is to review the President's FY2000 budget request for the Bureau of Reclamation and the Power Marketing Administrations.

The hearing will take place on Wednesday, March 3, 1999, at 2 p.m. in room SD-366 of the Dirksen Senate Office Building in Washington, DC.

Those who wish to testify or submit a written statement should write to the Committee on Energy and Natural Resources, U.S. Senate, Washington, DC 20510. For further information, please contact Ms. Julia McCaul, Howard Useem, (PMA's) or Colleen Deegan (BOR) at (202) 224-8115.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. CRAIG. Mr. President, I would like to announce for the public that a hearing has been scheduled before the Senate Subcommittee on Forests and Public Land Management. The hearing

will take place on Thursday, March 11, 1999, at 2 p.m., in SD-628 of the Dirksen Senate Office Building in Washington, DC. The purpose of this oversight hearing is to receive testimony on the FY2000 proposed budget for the U.S. Forest Service. Those who wish to submit written statements should write to the Committee on Energy and Natural Resources, U.S. Senate, Washington, DC 20510. For further information, please call Amie Brown or Mark Rey at (202) 224-6170.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. CRAIG. Mr. President, I would like to announce for the public that a hearing has been scheduled before the Senate Subcommittee on Forests and Public Land Management. The hearing will take place on Tuesday, March 16, 1999, at 2 p.m., in SD-366 of the Dirksen Senate Office Building in Washington, DC. The purpose of this oversight hearing is to receive testimony on the FY2000 proposed budget for the U.S. Forest Service. Those who wish to submit written statements should write to the Committee on Energy and Natural Resources, U.S. Senate, Washington, DC 20510. For further information, please call Amie Brown or Mark Rey at (202) 224-6170.

AUTHORITY FOR COMMITTEE TO MEET

SPECIAL COMMITTEE ON AGING

Ms. COLLINS. Mr. President, I ask unanimous consent that the Special Committee on Aging be permitted to meet on February 22, 1999, at 1 p.m., in Dirksen 628 for the purpose of conducting a hearing.

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

ADDITIONAL STATEMENTS

LORENZO DA PONTE, 1749-1838

• Mr. MOYNIHAN. Mr. President, among the paintings hanging in the Blue Room of New York's City Hall is a full-length portrait of General Lafayette by Samuel F. B. Morse. The father of the telegraph (and noted member of the anti-Catholic "Know-Nothings"), began his career as a portrait artist. For his commission, Morse received \$100 and earned a reputation as a gifted painter. Before turning to invention, he would paint the portraits of a galaxy of New York worthies.

The subject of one such portrait is known to opera lovers the world over—Lorenzo Da Ponte. He was, of course, the librettist of Mozart's masterpieces *Don Giovanni*, *Nozze di Figaro*, and *Così Fan Tutte*. What makes his life especially intriguing to an American is his career in New York. In a preface to a 1959 edition of his *Memoirs* (first published in 1830) THOMAS G. Bergin observes

By tradition, education, and experience, this European sophisticate would seem to be

far removed from the American Psyche; but his deeper nature—eager, adventurous and basically evangelical—was well-adapted to the New World.

Born March 10, 1749 in Ceneda, Italy, now Vittorio Veneto, Da Ponte arrived in New York in 1805 in his middle years and with what might seem to be his greatest work already behind him. Upon coming ashore, he was the self-proclaimed "poet of the Emperor Joseph II, for Salieri, for Storace, for Mozart!" He found work as a grocer on the Bowery, that great stretch of Manhattan teeming with all the varieties of 19th Century life. He soon fell in with the young Clement Clark Moore, founder of the General Theological Seminary and the (long anonymous) author of *The Night Before Christmas*. The two shared a love of language and books. Moore, amazed by Da Ponte's brilliance, introduced his friend to a literary group at Columbia College, of which he was a trustee. The group included the future Congressman Gulian Verplank. In time Da Ponte would become a major figure in New York society, dining with Livingstons, Hamiltons, Onderdoncks and the like. He became a professor of Italian, donated the first volume of Italian literature to the New York Public Library, and, with the help of his friends at Columbia, founded the Italian Opera. *Don Giovanni* was performed at the Park Theater in May 1826 and it may be said New York has never been the same.

The scholar Arthur Livingston observes, "There is no doubt all this was an important moment for the American mind. Da Ponte made Europe, poetry, painting, music, the artistic spirit, classical lore, a creative classical education, live for many important Americans as no one had done before."

In 1838, his last year on earth, he was given absolution by John MacCloskey, New York's second Archbishop and America's first Cardinal. He died on August 17. Three days later, at Old St. Patrick's Cathedral at Mott and Prince Streets, he was honored with a "hero's burial" before a large and distinguished funeral party. As one account has it:

Da Ponte was buried, probably in the tomb of a friend, to await reburial and a headstone at a later date. As far as is known, the reburial never took place, and the headstone was not installed. The overcrowded cemetery was closed in 1848, and all of its records (including Da Ponte's) were destroyed when Old St. Patrick's was gutted by fire eighteen years later. . . . Between 1909 and 1915, all the bodies were disinterred and moved, with or without identification, to Calvary Cemetery in Queens.

And so, like Mozart, Da Ponte came to rest in an unmarked grave.

This year provides an opportunity to rectify, at least in part, this sad and resonant ending. This seems a wondrous time to celebrate perhaps by some memorial in Old St. Patrick's, surely by performing Mozart's *Requiem*, K.626, composed in 1791.

After his death, the New York Daily Express recorded:

Signor Da Ponte came to America, where he has resided 32 years, chiefly in this city; and to his indefatigable exertions, commanding talents, and profound literary attainments, are we mainly indebted for the taste everywhere diffused on our country for the music and language of his native land. He has been the Cadmus to whom we owe an unpayable debt for these inappreciable gifts.

We are in his debt to this day, and surely 1999 is year to acknowledge it.

I ask that the obituary from the New York Daily Express be printed in the RECORD.

The obituary follows:

[From the New York Daily Express, August 20, 1838]

CITY AFFAIRS

DEATH OF DAPONTE—Signor Lorenzo Daponte being a resident of this City died here on Friday at the advanced age of 90. His celebrated opera, written for Mozart, has given him a name all over the world. The Sunday Morning News states that he was a Venetian and native of *Cenda*—educated from the Church, and then afterwards from his fine poetic talents and passion for music, that he became a prominent person in the Court of Emperor Joseph II of Austria. Under his special protection, he formed a close relationship with the celebrated Mozart, which led to the production of those admired Operas, *Giovanni*, the *Marriage of Figaro*, and *c.*, which the poetry of Daponte is no less eternized by its own beauties than by the divine music by which it is embalmed. After the decease of Mozart, who died in his friend Daponte's arms, the poet went to London, and there for years was intimately associated with the early efforts to introduce a more perfect Italian Opera. From there, Signor Daponte came to America, where he has resided 32 years, chiefly in this city; and to his indefatigable exertions, commanding talents, and profound literary attainments, are we mainly indebted for the taste every where diffused in our country for the music and language of his native land. He has been the Cadmus to whom we owe an unpayable debt for these inappreciable gifts. His memory will endure; for his disinterested labors and passionate devotion to the arts which he cultivated. As a Latin and Hebrew Scholar, he had perhaps no equal or superior here.

NOTICE.—The numerous Italians of this City, countrymen of the venerable Daponte, deeply impressed with the honor which the character and labors of the deceased have reflected on their own and their adoptive country, will assemble at his late residence, No. 91 Spring Street, precisely at 6 o'clock p.m. this day whence his remains will be conveyed to the Cathedral, and a requiem performed by distinguished Italian artists of this City, previous to the interment of the corpse in the Catholic burying ground.●

TRIBUTE TO THE SOUTHERN INDUSTRIALIST DANIEL PRATT

● Mr. SHELBY. Mr. President, I rise today to pay tribute to Daniel Pratt, a distinguished Southern Industrialist and founder of the city of Prattville, Alabama. A man whose vision guided the state on a course of industrialization and modernization. As a celebration of Daniel Pratt's 200th birthday, 1999 has been named the "Year of Industry" in Alabama. This is a significant tribute to honor a very important figure in the history of Alabama. Daniel Pratt's legacy not only includes the beginning of modern industry to the

state, but also philanthropic deeds that were unrivaled for his era. Daniel Pratt's indomitable pioneer spirit serves as an inspiration to others who have faced adversity and conquered the unknown.

Born in 1799, Daniel Pratt was raised in Temple, New Hampshire. Brought up as a Congregationalist in a traditional Puritan family, Daniel Pratt grew up disciplined, structured, and religious. He received only a limited education, but took advantage of an opportunity to apprentice under a family friend, who was an architect and a builder. This new focus in his life helped to channel his natural inclination towards machinery and building. After his mother's death in 1817, Daniel Pratt acted on his ambitions and set out for the South, which he regarded as a land of opportunity. Daniel Pratt's formative years instilled in him a strong work ethic and religious convictions, along with a sense of compassion. These two attributes would help to guide him through difficult decisions throughout his life.

After sailing to Savannah, Georgia, Daniel Pratt did not immediately become a rich entrepreneur. Initially, he put the tools of his apprenticeship to work as a builder and planner for wealthy planters. After a few years, he moved onto ship building, adding to his burgeoning knowledge of construction and the industrial process. Daniel Pratt was willing to take the long road to success. He realized that the only way to succeed in life was through hard work and gritty determination. He also had the common sense to learn from others, which paid off when he befriended Samuel Griswold, who was a prominent cotton gin manufacturer in the area. Through friendship as well as a business relationship, Daniel Pratt learned the trade which would ultimately thrust him into the forefront of Southern industrialization. Daniel Pratt proved to be so adept at the manufacture and sale of cotton gins, that he became a partner in the enterprise within a year. At this point in his life, Daniel Pratt's unbridled vision was able to manifest itself in his actions. He saw that the expansion of the cotton gin into the West was a fantastic opportunity for his new enterprise. He realized that the center of distribution in the South would revolve around the great river systems which offered the advantage of water as a cheap source of power. Pratt had planned to stay in business with his partner, but with Indian uprisings in the Alabama area, his partner became apprehensive. This did not deter Daniel Pratt in the slightest. As his first biographer, Shadrack Mims wrote: "The indomitable will of Daniel Pratt, that spirit of enterprise which characterized him through life, was not to be daunted nor discouraged by Indian uprisings. He purchased material for fifty gins, put the same on wagons, and in 1833, he with his brave wife headed for Alabama."

Daniel Pratt rapidly met the success he foresaw in his move to Alabama. He

found quick sales among the planters of the Alabama Black Belt. He established a temporary site for his factory along Autauga Creek and immediately began to expand his operations. Within a period of five years, it was evident that he needed a larger area for a permanent site. He chose to settle on a marshy, heavily wooded piece of land only three miles from his original site. In only ten years, he turned this hostile area into a thriving manufacturing village of eight hundred people. This is the site that would eventually form the booming industrial town of Prattville.

Initially, the Gin Factory was the corner stone of the economy in the new settlement. But as business grew, Daniel Pratt reinvested the profits into new industries in the town. By the 1850's, Prattville, for its size, furnished the most diverse industrial pattern in the United States. In addition, the Pratt Gin Company became the largest gin factory in the world, with unrivaled quality in construction. Daniel Pratt's business was so successful, that he began to invest money in the state infrastructure. He presided over railroad conventions and sparked Southern railroad growth with his generous infusion of capital.

Daniel Pratt also used his good fortune to invest in the Red Mountain Iron and Coal Company, and he controlled the Oxmoor iron furnaces in the Birmingham Industrial district. In his honor, the great vein of coal west of Birmingham was named the Pratt Vein, and Pratt City was later incorporated into the town of Birmingham. These furnaces were destroyed by Wilson's Raiders during the Civil War, but Daniel Pratt was determined to rebuild them. With the help of his son-in-law, Henry Debardeleben, he did just that, and by 1873, they were back in operation. The name was changed to the Eureka Mining Company, and the towns of Birmingham and Bessemer began to thrive. Daniel Pratt is credited with being one of the driving forces behind the development of that entire area of the state.

In 1847, the University of Alabama awarded him the degree of Master of Mechanical and Useful Arts, the only one of it's kind the University has ever given. Pratt also served as a distinguished member of the Alabama House of Representatives throughout the duration of the Civil War.

However, it was Daniel Pratt's philanthropic deeds which set him apart from other industrialists of his time. Pratt built schools and churches for workers in his textile mill with his own money. His boundless paternalism towards his workers led him to teach in Prattville's Sunday Schools. It was his sincere desire to better both the town of Prattville as well as the entire South through his relentless efforts to preach the industrial gospel. He wrote numerous letters and articles professing his industrialist beliefs, which were published in southern newspapers and periodicals across the area.

Although born 200 years ago, Daniel Pratt serves as a shining example of a pioneer spirit which transformed the South into a thriving industrial center. His leadership, vision, courage, and generosity is an inspiration to everyone.●

SISTER JANE: A CHAMPION FOR THE POOR

● Mr. LAUTENBERG. Mr. President, I rise today to recognize the work of an extraordinary woman from the state of New Jersey, Sister Jane Frances Brady.

Sister Jane, as she is widely known, has been a tireless advocate on behalf of the poor and uninsured. She has done this most visibly through her 26-year tenure as both president and chief executive officer of St. Joseph's Hospital and Medical Center in Paterson, New Jersey.

Mr. President, as many of my colleagues know, Paterson is my home town and I am privileged to be able to call Sister Jane a good and longtime friend. Sister Jane has just recently stepped down from her position as president, and will leave her post as CEO of St. Joseph's by the summer. I know that she will be sorely missed there.

But Sister Jane is not leaving health care altogether. She will be the new executive vice president of Via Caritas Health System in Parsippany.

The combination of Sister Jane's tough administrative style and endless compassion has enhanced St. Joseph's facilities and reputation immensely. During her time there, the hospital has excelled in providing care for people living with HIV, newborns, bone marrow transplant candidates, patients needing open-heart surgery and trauma victims.

Mr. President, one of the most important things that Sister Jane has done through her work at St. Joseph's is to care for poor children. A huge part of fighting that battle is waging a campaign to provide health insurance coverage for those children. I would like to share with my colleagues a recent editorial in the Bergen Record about Sister Jane, and her fearless courage to fight for the right of the urban poor population to have access to adequate health care.

Mr. President, I congratulate Sister Jane on all her hard work at St. Joseph's, and wish her well in her new position at Via Caritas.

Mr. President, I ask that a copy of the article be printed in the RECORD.

The article follows:

[From the Bergen Record, Jan. 12, 1999]

SISTER JANE STEPS DOWN

An estimated 290,000 children in New Jersey go without medical insurance. So last year, when the Whitman administration withdrew some funding for a health-care program for uninsured children because of lower-than-expected enrollment, Sister Jane Frances Brady, president and chief executive officer of St. Joseph's Hospital and Medical Center in Paterson, was furious.

With the help of St. Joseph's, Passaic County alone had registered more than 1,400 children—nearly one-fifth of the statewide enrollment up until that point. "If we did that, why can't the state do as much?" Sister Jane asked.

Stung by criticism from Sister Jane and others, the state initiated a massive advertising campaign to sign up uninsured children. It included mass mailings, advertisements, and a radio spot by Governor Whitman.

Sister Jane has always expected others to work as hard for the poor as she does, and that applied to state officials as well as St. Joseph's employees. In addition to championing the urban poor during her 26 years at St. Joseph's, Sister Jane has transformed the hospital into a regional health-care hub that attracts patients statewide for services such as high-risk births and open heart surgery.

Earlier this month, Sister Jane stepped down as president. Patrick Wardell, the hospital's new executive vice president, will run the hospital on a day-to-day basis, but the 63-year-old nun will continue as CEO until July. At that point, she will assume full-time her role as executive vice president of Via Caritas Health System in Parsippany. Via Caritas is a Catholic health-care system—formed in 1997—that has St. Joseph's as its largest hospital member.

Sister Jane set a fine example for dedication and leadership at St. Joseph's. Prior to suffering a small stroke in 1997, she had never taken a sick day. And under her leadership St. Joseph's became one of the most financially sound hospitals in the state. Although she will remain a tireless voice for compassion for the less fortunate, her day-to-day involvement in the medical care of the poor in Paterson will be missed.●

100 YEARS OF SPARTAN BASKETBALL

● Mr. ABRAHAM. Mr. President, I rise today to honor my alma mater, Michigan State University, as their basketball program celebrates its centennial season. Over the course of the last century, Spartan basketball has been a tremendous source of pride for the Michigan State student body and its vast alumni network. A splendid representative of the Big Ten conference since 1951, MSU is one of the premier college basketball programs in the nation. MSU basketball has produced 45 NBA draft picks, among them some of the greatest players in the history of the game.

The many great teams and coaches that have graced the floor of the Jenison Field House and Breslin Center should be very proud of the tradition of excellence that they have built. The accomplishments of Michigan State's basketball program are tremendous: 15 First-Team All-Americans, seven Big Ten championships, four Big Ten players of the year, 12 NCAA Tournament appearances, and one National Championship.

I extend my warmest regards and best wishes to the 1998 National Coach of the Year, Tom Izzo, and all current Spartan players. I also applaud all past coaches, players, and supporters of Spartan Basketball's first one hundred years. I hope the next century is as exciting and successful as the first.●

TRIBUTE TO GORDON M. SHERMAN

● Mr. CLELAND. Mr. President, I rise today to honor Gordon Sherman, of Dunwoody, Georgia, who after more than four decades of dedicated service to the Social Security Administration retired on December 31, 1998. He is an outstanding example to his family and friends, and has been an asset to the many communities that he has touched over the years.

Gordon has more than 40 years of combined military and civilian federal service. He began working for the Social Security Administration in 1958 and has served as the Southeast Regional Commissioner to the Social Security Administration (SSA) since October 1975. In this role, he has been responsible for supervision, coordination, executive leadership, and effective and efficient administration of the Social Security program in the eight southeastern states.

As a career senior governmental executive, he has received many awards in honor of his noteworthy accomplishments and outstanding leadership over the years. Several of Gordon's most prestigious awards are the U.S. Army Legion of Merit medal, two Presidential Meritorious Executive Rank Awards, the National Public Service Award from the American Society of Public Administration (ASPA) and the National Academy of Public Administration (NAPA), the coveted Ewell T. Bartlett National Award for Humanity in Government, and the national "Making the King Holiday Award" from the Martin Luther King, Jr., Federal Holiday Commission for his assistance in making this holiday a reality.

As a native of Alabama, he graduated from Auburn University with a B.S. degree and received J.D. and LL.M. degrees, as well as an honorary LL.D from Woodrow Wilson College of Law and completed the Senior Managers in Government (SMG) program at the John F. Kennedy School of Government at Harvard University. Gordon and his wife Miriam are also associated with several business, educational, professional, civic, service and volunteer organizations in the Dunwoody area.

Mr. President, I would like to honor and commend Gordon Sherman for his outstanding and innumerable contributions over the years to the State of Georgia and to our entire Nation, and ask you and my colleagues to join me in saluting and congratulating Gordon on his retirement. Gordon, you truly are a great American, and I wish you many more joyous years in the future.●

TRIBUTE TO THE VETERANS OF THE PERSIAN GULF WAR

● Mr. GRAMS. Mr. President, I rise today to pay tribute to the brave men and women who risked their lives fighting in the Persian Gulf War.

February 27 marks the eighth anniversary of the end of the Persian Gulf War and the liberation of Kuwait. After

seven months of Iraqi occupation resulting in a six-week war, and cumulating in 100 hours of land attacks, Iraq was forced to withdraw from Kuwait. When it was all over, 697,000 U.S. troops had been deployed to the area and had helped gain freedom for the Kuwaitis. We honor the courageous men and women who fought in the war and especially those who lost their lives while fighting to protect the ideals America stands for; that is, freedom and liberty for all.

As Americans, we enjoy many freedoms. When our Forefathers declared independence from Britain, they cited the "right to life, liberty and the pursuit of happiness" as the rights of all citizens. These inalienable rights cannot be taken away by anyone. After America won its independence and had drafted a constitution, a section was added to secure certain rights of all Americans. This addendum was called the Bill of Rights, and it ensures all citizens freedom of speech and freedom of religion. Unfortunately, we sometimes take these freedoms for granted and forget that not all people around the world enjoy the same inalienable rights that we do, nor can they protect themselves from aggressors who threaten to take away their liberty.

When Saddam Hussein invaded Kuwait, he took away their freedom and threatened to oppress the people. As a promotor of freedom and liberty, the United States stepped in to defend the rights of Kuwaitis. Although war is a grave option, all people deserve the chance to live without oppression. Before turning to war, our first move is to find a solution peacefully through negotiations. Yet, sometimes this option fails. As much as we want to achieve world peace through diplomatic means, the unfortunate reality is that sometimes we face many complicated international problems, which must be dealt with in other ways.

Because of the actions of Saddam Hussein, the Persian Gulf War was unavoidable. The U.S. Armed Forces came together with our Allies to fight for the rights of the people of Kuwait. We should be proud of the heroic men and women, including the members of the Minnesota Reserve and Guard, who fought for the freedom of others. These men and women put their lives on the line without hesitation.

Mr. President, eight years ago, American soldiers bravely won freedom for a small country in the Middle East. I am honored today to pay tribute to these courageous men and women who fought in the Persian Gulf War.●

TRIBUTE TO BARNEY DWYER

● Mr. LAUTENBERG. Mr. President, I rise today to pay tribute to friend and former colleague in Congress, Bernard Dwyer. Barney, as he was affectionately known, was a devoted public servant and respected New Jerseyan,

having served 12 years in the House of Representatives.

Mr. President, you might not know how devoted he actually was, since he never delivered a speech on the floor of the House. But Barney was proud of that record.

He worked proudly, and tirelessly, behind the scenes in Congress as a member of the House Appropriations Committee to fund myriad projects for New Jersey and for the country. Only some of the examples of his hard work was his support of AMTRAK and New Jersey's transportation funding needs, his backing of an alcohol abuse program at Rutgers University, and his assistance in helping the Red Cross receive grants for AIDS education programs. Whether he was improving sidewalks, street lamps, public schools or community park paths, Barney approached his work with the same diligence and passion.

Mr. President, Barney began his career over forty years ago, serving as councilman and mayor in Edison, New Jersey. He then served as a state senator of New Jersey for six years, acting as both senate majority leader and as chairman of the Legislature's joint appropriations committee.

Before going into politics, Barney also served in World War II. He was the believed to be the only member of Congress to have survived the attack on Pearl Harbor in 1941.

Mr. President, Barney Dwyer stood out in New Jersey's political community as warm, compassionate, modest, even humble. He was an honorable statesman and a man of the highest integrity. And he will be sorely missed.

I would like to send my sincerest condolences to Barney's family.●

TRIBUTE TO WOMEN'S RESOURCE CENTER

● Mr. SANTORUM. Mr. President, I rise today to recognize the Women's Resource Center of Lackawanna and Susquehanna Counties in Pennsylvania for providing more than 20 years of shelter and counseling to adults and children who have been victims of violence at the hands of family members, partners or someone else they know.

The Center will display a memorial exhibit, "An Empty Place at the Table," in the Rotunda of the Senate Russell Building on February 24 and 25 to ensure that the brutal deaths of women and children are not forgotten.

In the United States a woman is beaten by her partner or former partner every 12 seconds, and, according to the FBI, 26 percent of all female murder victims are killed by their husbands or boyfriends.

The Women's Resource Center, established in 1977, has demonstrated a commitment to their community by providing more than 18,000 hours of crisis services. These services include a 24

hour hotline, an emergency shelter, crisis counseling and advocacy to more than 2,000 adults and children each year, as well as numerous hours of educational programming with the legal system, schools, businesses, professionals and faith communities on the dynamics of abuse and assault. The Center provides their services under the strictest confidentiality and free of charge and discrimination.

Mr. President, the Center's memorial exhibit reveals how violence undeniably leaves an empty place at the table. I ask my colleagues to join with me in commending the Women's Resource Center for its leadership and commitment to restoring the fundamental right to live free from fear in our own homes.●

EXPLANATION OF VOTE

● Mr. SPECTER. Mr. President, on rollcall votes No. 17 and No. 18, I am recorded as voting "not guilty." I ask that the RECORD reflect that, in fact, when the roll was called, I stood and voted, "not proven, therefore not guilty" on both votes.●

EXECUTIVE CALENDAR

EXECUTIVE SESSION

Mr. ALLARD. Mr. President, I ask unanimous consent that the Senate immediately proceed to executive session to consider the following nominations on the Executive Calendar: No. 6 and 7, and all nominations on the Secretary's desk and the Coast Guard. I further ask unanimous consent that the nominations be confirmed, the motions to reconsider be laid upon the table, and the President be immediately notified of the Senate's action, and the Senate then return to legislative session.

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

The nominations were agreed to.

The nominations considered and confirmed are as follows:

DEPARTMENT OF TRANSPORTATION

William Clyburn, Jr., of South Carolina, to be a Member of the Surface Transportation Board for a term expiring December 31, 2000.

Wayne O. Burkes, of Mississippi, to be a Member of the Surface Transportation Board for a term expiring December 31, 2002.

IN THE COAST GUARD

Coast Guard nomination of George W. Molessa, Jr., which was received by the Senate and appeared in the Congressional Record of February 3, 1999.

Coast Guard nominations beginning James W. Kelly, and ending John J. Santucci, which nominations were received by the Senate and appeared in the Congressional Record of February 3, 1999.

Coast Guard nominations beginning James E. Malene, and ending Steven M. Wischmann, which nominations were received by the Senate and appeared in the Congressional Record of February 3, 1999.

NOMINATION OF WAYNE O. BURKES

Mr. LOTT. Mr. President, it is my great pleasure to see the Senate today approve the nomination of a fellow Mississippian, Wayne O. Burkes, to serve as a member of the Surface Transportation Board (STB). Wayne is qualified to serve because he brings a wealth of experience and a depth of character to the STB.

Wayne Burkes comes to this position after serving as the Transportation Commissioner for the Central District of Mississippi for the past ten years. In this capacity, he supervised all modes of transportation in the state involving aviation, highways, public transit, and rail safety. Prior to that, he served for 14 years in the Mississippi Legislature as both a Senator and a Representative on the Highways and Transportation Committees.

Mr. President, Wayne Burkes brings a real multimodal background to the STB. He is a thoughtful, introspective, humble, and mature public servant. Wayne knows who he is and this will help him be an effective STB Member. Significantly, his experience, education, and training extend beyond the world of transportation. He understands the economics of business from his experience as an insurance underwriter and serving on the Board of Trustees of the Mississippi Baptist Medical Center.

Wayne Burkes answered our Nation's call to duty by serving in the Air Force and Mississippi's Air National Guard, including service in Vietnam. He rose to the rank of major general before retiring from the Air National Guard. His background includes over two decades as a pastor at his church, where he now serves as a deacon. He also volunteers his time and talents to assist the Boy Scouts of America.

Mr. President, our Nation can count on Wayne Burkes to diligently and

faithfully execute his duties as a member of the STB. He is the one of the most decent and honest men you could hope to find. We wish him well as he embarks on another public service mission.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will return to legislative session.

ORDERS FOR TUESDAY,
FEBRUARY 23, 1999

Mr. ALLARD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 10:30 a.m. on Tuesday, February 23. I further ask that on Tuesday immediately following the prayer, the Journal of proceedings be approved to date, the morning hour be deemed to have expired, and the time for the two leaders be reserved. I ask unanimous consent that there then be a period of morning business until 11 a.m. with Senator SMITH of New Hampshire recognized for up to 20 minutes, and Senator DURBIN recognized for up to 10 minutes. I further ask consent that at 11 a.m. the Senate then resume consideration of S. 4, the Soldiers', Sailors', Airmen's, and Marines' Bill of Rights Act of 1999.

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

Mr. ALLARD. I further ask unanimous consent that the Senate stand in recess on Tuesday from 12 noon until 2:15 p.m. to allow the weekly party caucuses to meet.

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

PROGRAM

Mr. ALLARD. Mr. President, for the information of all Senators, the Senate

will reconvene tomorrow morning at 10:30 a.m. and begin a period of morning business until 11 a.m. Following morning business, the Senate will resume consideration of S. 4. It is expected that Senators will begin to offer amendments to S. 4 once the bill is reported, and, therefore, rollcall votes are possible prior to the policy luncheon recess at 12 noon.

ADJOURNMENT UNTIL 10:30 A.M.
TOMORROW

Mr. ALLARD. Mr. President, if there is no further business to come before the Senate, I now ask that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 5:25 p.m., adjourned until Tuesday, February 23, 1999, at 10:30 a.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate February 22, 1999:

DEPARTMENT OF TRANSPORTATION

WILLIAM CLYBURN, JR., OF SOUTH CAROLINA, TO BE A MEMBER OF THE SURFACE TRANSPORTATION BOARD FOR A TERM EXPIRING DECEMBER 31, 2000.

WAYNE O. BURKES, OF MISSISSIPPI, TO BE A MEMBER OF THE SURFACE TRANSPORTATION BOARD FOR A TERM EXPIRING DECEMBER 31, 2002.

IN THE COAST GUARD

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES COAST GUARD RESERVE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203(A):

To be captain

GEORGE W. MOLESSA, JR., 0000

COAST GUARD NOMINATIONS BEGINNING JAMES W KELLY, AND ENDING JOHN J SANTUCCI, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON FEBRUARY 3, 1999.

COAST GUARD NOMINATIONS BEGINNING JAMES E MALENE, AND ENDING STEVEN M WISCHMANN, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON FEBRUARY 3, 1999.