

are contributing to a precipitous decline in the moral of the soldiers in uniform.

Mr. President, we believe it would be an unacceptable policy to send our troops into harm's way without addressing the scarcity of spare parts and relevant readiness issues that currently permeate the forces. Of course, I am not prepared to support the half baked, not thought through ideas that I fear are still being contemplated by this administration for what currently serves as our "policy" in Bosnia and Kosovo.

We must send a clear signal to the administration that we will not paint ourselves into another Bosnia, especially without the administration's assurance that our military will not once again be asked to do more with even less.

Before we commit American lives to another dangerous mission overseas, we must clearly define our objectives and be realistic in the commitment required to achieve them. More importantly, we must give our men and women in uniform sufficient assurance that their loyalty is not a one-way street. This can only be achieved by stopping the decline in defense budgets and ensuring a higher quality of life for our soldiers.

I am pleased to be joined by the distinguished Senator from Texas in these remarks this morning.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. DOMENICI. I yield the floor.

Mrs. HUTCHISON addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mrs. HUTCHISON. Mr. President, I want to really follow on what the distinguished Senator from New Mexico was saying, because I think he laid out very well the problems that we are facing with our military today. No one questions the job our military is doing. They are doing their jobs well. But it is clear that we are losing our experienced people.

As the Senator from New Mexico has just pointed out, we are losing our experienced pilots, we do not have enough parts to keep the airplanes running, and the Army had its worst recruiting year last year since the late 1970s.

At the time that we are looking at mission fatigue, our troops being over-deployed away from their families on missions that are not security threats to the United States, we are now seeing a mixed message from this administration about yet expanding their responsibilities.

We were told in the last few weeks that NATO is contemplating airstrikes in Serbia. This is, of course, a terrible and tragic situation in Kosovo. And, clearly, we want to try to do everything possible to curb atrocities that are happening and may happen in the future in Kosovo. But, Mr. President, a superpower cannot fling around the

world without a plan, without a thought, and have credibility.

I ask the question of the administration, Have we done everything we can do at the bargaining table with Mr. Milosevic? Have we put every economic sanction that can be put? Have we isolated this country to the extent that we can—as we have also tried to do with Iraq—to show this leader that he cannot continue to act in an irresponsible manner toward human beings in his own country and get by with it?

Have we done everything we can do first? If we have—and I don't think we have—if the administration makes the case that we have, then, and only then, should we be considering other options.

Mr. President, if we are going to bomb another country because of a civil conflict, a sovereign country that is in a civil conflict, have we thought through what the exit strategy is? Have we thought through what our responsibility is going to be for doing that? I haven't seen a plan. I haven't seen any kind of "after plan" after bombing. Yes, we have talked about bombing. But if we are bombing for the purpose of saying to Milosevic, "You must withdraw your police so that the Albanians who live in Kosovo can come out of the hills and go into their homes," how is that to be enforced?

We have been told by administration officials that there would not be American troops on the ground unless there is a peace agreement, something to enforce. Yet yesterday the Secretary of Defense opened the door on American troops on the ground with NATO forces. Yet we haven't seen a plan. We haven't seen what the American role will be. We have certainly not been consulted to determine if the United States is ready to expand its mission in the Balkans.

We were told we would be out of Bosnia a year ago. We were told a year and a half ago, we were told 2 years ago that our mission in Bosnia would be complete when the parties were separated and the elections had been held. The parties are separated. The elections have been held. Yet American taxpayers have spent \$10 billion in Bosnia, and the President is now saying there is an "unending mission" there. He has refused to put a timetable on it. This week the President has asked the U.S. Congress for \$2 billion more for Bosnia in a supplemental appropriation, as if this were an emergency. Why didn't the administration put this in the budget? He says it is an unending mission, yet we have an emergency appropriation.

I conclude by saying we cannot fling ourselves around the world without a clear strategy and a clear role for the United States. I am looking to the President for leadership and I haven't seen it.

I yield the floor.

DON'T TAMPER WITH THIS JURY

Mr. BYRD. Mr. President, I have recently read several articles in the press

which are cause for concern. One such article appeared in the Sunday, October 4, edition of the Washington Post, titled "Bid to Trump Inquiry Shelved."

The piece discussed White House efforts to produce a letter signed by at least 34 Democratic Senators declaring that they would not vote to convict the President, should the House decide to write articles of impeachment. According to the report, Minority Leader TOM DASCHLE has discouraged such an attempt.

I commend the Democratic leader, Mr. DASCHLE, for his wise and judicious counsel on this matter. He has done the White House, he has done the President, he has done all Senators, and, indeed, the entire nation a great, great service.

I am concerned about the ugly and very partisan tone that has enveloped many discussions of this matter, and about the extreme polarization which has already occurred. The House Judiciary Committee has voted to begin an impeachment inquiry. I have had nothing to say about that. I don't intend to have anything to say about that. This is the House's business. There is a constitutional process in place. That process has begun. The ball is in the field of the House of Representatives at this point. We here in the Senate should await the decision of the House of Representatives as to whether or not articles of impeachment will, indeed, be formulated.

Senators may at some point have to sit as jurors. Let me say that again. Senators may at some point have to sit as jurors in this matter and will be required to take an oath before they do. I read this oath into the RECORD a few days ago. I want to read it again, because the Senate will shortly be going out, not to return at least until after the elections, and perhaps not until the new Congress convenes in January.

To repeat this oath at this point, might be well advised. The Bible says, "a word fitly spoken is like apples of gold in pictures of silver," and so I think it is a good time to repeat this oath, which will be incumbent upon every Senator, should articles of impeachment come to this Chamber. Here it is:

I solemnly swear that in all things appertaining to the trial of the impeachment now pending, I will do impartial justice according to the Constitution and laws: So help me God.

Note the word "impartial." We all need to remember the solemn responsibility we may be required to shoulder.

I would suggest by way of friendly advice to the White House, don't tamper with this jury. Don't tamper with this jury. I have been in Congress 46 years. I have been in this Senate 40 years. There are some people here who take their constitutional responsibilities very seriously. This will not be politics as usual if articles of impeachment come to this body.

My friendly words of advice to my colleagues are these: We may have to

sit as jurors. Don't let it be said that we allowed ourselves to be tampered with, no matter who attempts the tampering, no matter how subtle the attempt. How can we commit ourselves to vote for or against articles of impeachment without having seen them, without having heard the managers on the part of the House prosecute the articles, without having heard the impeached person's lawyers and representatives or even the impeached person himself make the defense? How can we as Senators, who will be prospective jurors, commit ourselves at this point, or at any point, as to how we will vote on such articles? We cannot do it and live up to the oath that we will be required to take. It is a solemn matter, it is not politics as usual, and I personally will resent—and I hope every other Senator will personally resent—any effort on the part of anybody in these United States to tamper with Senators as prospective jurors. I will personally resent it on behalf of the Senate and on behalf of the Constitution. I urge all Senators to be on their guard.

There has been a great deal of gratuitous advice given by people on the outside, and some on the inside, who know very little, probably, about the history of impeachment, about the history of the Senate, about responsibilities of Senators under the Constitution in such an event. We don't know what the House may decide to include in articles of impeachment when and if they ever come to the Senate. There can be an inquiry by the House, yet never be any articles formulated. That is up to the House. But if the House decides to formulate articles of impeachment, we have no choice here in the Senate but to vote up or down. We can't amend such articles. We have no way of knowing what the House may consider to be an impeachable offense. An impeachable offense does not have to be an indictable offense at law.

So I warn Senators, and I warn those at the other end of the avenue, to exercise the utmost care lest somebody be unjustly prejudiced because of tongues that wag too easily and too early.

I also condemn the circus atmosphere which has overtaken this city. There are attack dogs on both sides, on the talk shows and in the press, and their wild and rabid rhetoric is hardly contributing to an atmosphere of reason or respect. I believe that everyone must stop playing for advantage. And by that, I mean Republicans and Democrats alike; I mean people at both ends of the avenue and in between.

If the Senate votes on impeachment articles, that will be the most solemn, the most sobering, and the most far-reaching vote that Senators in this body will ever cast. Voting for a declaration of war does not compete with voting to convict or not to convict a President. We won't be voting to convict a Federal judge and to remove that judge from office. In this case, it would be the ultimate vote on the ulti-

mate question that could ever face this Senate. So I say to my colleagues: Be careful.

Mr. President, just to illustrate how close we are to making a total farce of the situation, I note that Larry Flynt, publisher of a magazine called *Hustler*, has offered \$1 million to anyone who will come forward with evidence of a sexual liaison with a Member of Congress or other high-ranking official. How much lower can we go? Now, that makes a farce of the Constitution.

Such tactics and countertactics only serve to convince the people of this Nation that whatever course we eventually take will amount to nothing more than partisan politics at its very worst. Now, we all play partisan politics, but this is one thing that won't bear touching with partisan politics on either side, Republican or Democrat. This is the Constitution which we have sworn that we will support and defend. One may say, well, there is no impeachable offense. This is something we don't know. If Senators commit themselves prematurely and then find, in reading the articles, that there is one article that is very, very difficult to vote against, it may be your own seat that you are imperiling.

I urge all Senators, many of whom are going home to stand for reelection, to avoid making commitments on this matter and to resist lobbying attempts, no matter how subtle, and no matter who attempts to lobby them. We must resist pressure from all sides.

The people are watching. This should not, this cannot, this must not, become bad, boring, beltway "politics as usual." This is a matter in which partisan politics should play no role. I say this to my Republican friends as well. There is far, far too much at stake for the President, for the Presidency, for the system of separation of powers, for Members of Congress, and for our country as well.

Mr. President, I ask unanimous consent to have printed in the *RECORD* the article from the October 4, 1998 *Washington Post*.

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

[From the *Washington Post*, Oct. 4, 1998]

BID TO TRUMP INQUIRY SHELVED—CLINTON LOBBYING BEHIND THE SCENES TO AVOID IMPEACHMENT

(By John F. Harris)

Hoping to quash the congressional impeachment process in its nascent stages, President Clinton in recent days discussed with Senate Minority Leader Thomas A. Daschle (D-S.D.) organizing an effort to have Democratic senators sign a letter declaring that none of the allegations or evidence in the Monica S. Lewinsky investigation would merit impeachment, according to Democratic sources.

Daschle discouraged the idea, which Clinton apparently first heard from another Democratic senator about a week ago, and for now it has been shelved.

But the effort illustrates the intensive behind-the-scenes lobbying Clinton is doing to ensure his future in office. The skepticism of Daschle and other Democrats in both the

House and Senate also illustrated how even lawmakers who want Clinton to remain in office are placing clear limits on what they will do to short-circuit the constitutional process of reviewing the allegations of impeachable behavior that independent counsel Kenneth W. Starr presented last month.

The hope, as Democrats familiar with the discussions described it, was to get at least 34 Democrats—or more than one-third of the Senate—to declare up front that they would never vote to convict. Since two-thirds of the Senate must vote to evict a president, such a letter would make a House impeachment vote moot, for all practical purposes. Clinton, sources said, apparently hoped that the letter could defeat the gathering momentum for a full impeachment inquiry in the House, which is set to authorize the process later this week.

"This is an idea which was generated on the Hill which is not getting much traction, because it's premature," said a senior White House official.

Also yesterday, sources said U.S. District Judge Norma Holloway Johnson had appointed an outside expert known as a "special master" to help her determine whether Starr's office illegally leaked grand jury material to reporters, as Clinton's lawyers have complained.

Starr's office has denied illegal leaks, but Clinton's lead private attorney, David R. Kendall, contends that the independent counsel's office has been the source of grand jury material whose publication was damaging to Clinton. Late last month, Johnson decided instead to appoint a special master, whose identity was not revealed, to conduct the inquiry and report back to her.

Clinton's advisers have resigned themselves to the virtual certainty that an impeachment inquiry will be approved by the House this week, but they hope perceptions that the vote was a partisan rush to judgment can turn this legal setback into a political gain.

The House Judiciary Committee will begin its formal deliberations on authorizing an impeachment inquiry Monday, and is planning to vote that day or Tuesday. Democratic sources in the administration and Congress said yesterday they are confident a measure authorizing an open-ended impeachment inquiry will pass with only Republican support, over the objections of Democrats backing a more focused inquiry that would be completed by Thanksgiving.

A day after the last major release of documents from Starr, Clinton's legal and political team yesterday had focused its own vote-counting efforts on the full House floor, in anticipation of a vote authorizing an impeachment inquiry by the end of the week.

On the floor, Clinton's hopes for making the case that the effort against him is a partisan affair are more clouded. A significant number of Democrats are prepared to vote in favor of the impeachment inquiry, which many administration and congressional officials say is all but certain to pass. Estimates on the precise number of these Democratic defectors vary widely. One Democratic source who has consulted with lawmakers said lower-end scenarios would have about 20 Democrats voting with the GOP. A House Democratic leadership aide said the number may be as high as 50; many of these lawmakers are planning to vote yes for both the Democratic inquiry resolution and then, if that fails, the Republican version.

What was striking this weekend was the passive public posture of the White House. Although the Clinton administration usually engages in aggressive public advocacy, on the eve of a vote that is critical to Clinton's future the White House was not sending its representatives on the usual Sunday talk

show circuit. Lawyers yesterday did nothing to expand the public defense they offered Friday, when Clinton's team claimed the 4,610 pages of new material released were further evidence of what they said was Starr's tendency to suppress exculpatory evidence.

The strategy of staying quiet, aides said, reflected a confidence that public perceptions of the case are already breaking in Clinton's favor, and that Democratic House members were better positioned to make the case that the process Republicans are proposing is unfair.

The latest release of documents "didn't even lead the news last night. There's no reason to look for opportunities to elevate this story," one White House official said of the quiet weekend. "Not that we're uninvolved, but the ball has now shifted to the congressional realm."

"Whatever was there hasn't caused a huge stir. Without any revelations, it hasn't changed the perception of what we have to do with the Hill and the American public. Our focus is still on the resolution and the Democratic alternative and how we can build on it," said another Clinton adviser outside the White House.

Mr. BYRD. Mr. President, I thank all Senators for their patience. I thank the Chair and yield the floor.

Mr. INHOFE addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma has sought recognition earlier.

Mr. INHOFE. Mr. President, first of all, let me associate myself with the remarks of the most distinguished senior Senator from West Virginia.

JUDICIAL NOMINATIONS

Mr. INHOFE. Mr. President, in the midst of all the confusion and anxiety of the last week, we are going to be asked to vote on the confirmation of three judges that I think should be looked at very carefully.

First is the nomination of William Fletcher to the Ninth Circuit Court of Appeals. Groups are in opposition due to a Law Review article in which he stated that judicial discretion trumps legislative discretion when a legislature fails to act.

Presently, Fletcher's mother is sitting on the Ninth Circuit, which is historically the most liberal and activist court in the United States. Over the last 3 years, the Supreme Court overturned the Ninth Circuit more than any other.

In a book review, about which Mr. Fletcher was questioned before the committee, he stated that political circumstances outweigh a literal reading of the Constitution. In short, the Constitution is what Judge Fletcher says it is. Judge Fletcher is an extremist and should not be confirmed.

Nomination of Richard Paez to the Ninth Circuit Court of Appeals: In an outrageous ruling in 1997, Judge Paez ruled that an American company could be liable for human rights abuses committed by their partners in another country.

Paez has shown a bias against religious and conservative groups. In one of the most publicized cases Paez heard as a District Judge was the 1989 trial of

Operation Rescue leader Randall Terry. Paez became upset with some of the pro-life language Terry used and "stormed off the bench." Additionally, he angrily warned the defendants that their Bible would be confiscated if they continued to wave or consult it.

While a sitting District Judge, Paez gave a speech at UC-Berkeley's law school in which he called California's Proposition 209 an "anti-civil rights initiative." In that speech, he also said, "legal action is essential" to "achieving the goal of diversifying the bench." He characterizes himself as a "liberal." Judge Paez is an extremist and should not be confirmed.

Lastly, and briefly, the nomination of Timothy Dyk to the Federal Court: While in private practice, Mr. Dyk, successfully fought the FCC's ban on indecent programming to protect children.

He has sat on the board of People for the American Way, and while working as an attorney for People for the American Way, he successfully defended a county school board that forced students to read materials their parents believed violated their deeply held religious beliefs. A member of Mr. Dyk's legal team called the concerned parents "somehow less important" and said "the enemy was really not" the plaintiffs "but [Rev. Jerry] Falwell."

I believe that Mr. Dyk is also an extremist and should not be confirmed in his nomination.

I yield the floor.

THE FINANCIAL SERVICES ACT OF 1998—MOTION TO PROCEED

Ms. MIKULSKI. Mr. President, I will vote against the motion to proceed on H.R. 10, the Financial Services Act of 1998. I oppose this legislation because it is inappropriate to bring down the protective firewalls in U.S. financial services while a firestorm is sweeping global financial institutions. Mr. President, this is the wrong time to be relaxing our protective financial services regulations.

I understand the intellectual argument to reform our financial services. In fact, I do not dispute it. There is no doubt that the U.S. needs to be competitive in the global marketplace. I would suggest to my colleagues, though, that changes in the global economic picture make this bill unwise. The global economic situation is vastly different now than when this bill was being drafted.

There are a number of what I call "yellow flashing lights" or warning signals that now is not the right time to enact this legislation. Let me mention a few. Former Secretary of State Henry Kissinger recently stated in the Washington Post that no government and virtually no economist predicted this global economic crisis, understood its extent or anticipated its staying power.

Now the United States Senate is going to rearrange the national finan-

cial landscape? We need to modernize the United States to go global? I think we need to pause and ask what does going global mean and do we want to go there at this time? In this current global environment of national financial collapses, IMF bailouts and hedge funds rescue packages have become daily occurrences. These are the "yellow flashing lights" and I believe we must proceed with caution to avoid rash and irrevocable changes when the savings of hard working families and the viability of our communities could be put in serious jeopardy.

Frankly, I am also concerned that the bill before us is the result of last-minute deal making. The issues here are too important for hasty decision-making. The decisions this bill makes affect the financial security of average Americans who are working and saving to provide for their families, U.S. financial institutions, the American economy and the global financial marketplace.

These are not trivial issues. We are being asked to establish a legislative framework for the financial services industry for decades to come. These are irrevocable decisions.

As changes were made to accommodate this interest or that interest, I am concerned that we have lost sight of the overall impact of the bill before us. I am concerned that we do not know enough about what's in the bill at this juncture, and what it will mean for our economic security. In the haste to get the job done before the Congress adjourns for the year, I have serious and deep reservations that changes have been made that have not been well thought out or thought through. If enacted, we will end up with unintended, but nevertheless, negative consequences because we rushed to the finish line.

Advocates of this legislation always mention the free market. They believe that buyers and sellers acting in their own self-interests will produce winners and losers, and bring about the best and most efficient outcome for banking customers. But look at what the free market has brought us lately—a global financial meltdown and hedge funds that are "too big to fail". As Kissinger suggested, indiscriminate globalism has generated a world-wide assault on the concept of free financial markets. In the United States, where we used to boast about our well functioning capital markets, we now bail out those investors who make foolish decisions.

One need look no further than the Long-Term Capital debacle to see evidence that even the brightest minds on Wall Street, acting in the free market, sometimes make very poor decisions. The collapse of this high-flying hedge fund was a failure of proper supervision. As Kenneth Guenther explains in the Baltimore Sun, this raises serious questions about our regulatory structure: "it doesn't make sense to have too-big-to-fail institutions if the regulatory structure is not up to regulating them. . . . if the regulators