for addressing Presidential misconduct. Judge Bork reached this conclusion many years ago when the Justice Department considered the options for prosecuting Vice President Agnew. But Judge Bork's view is hardly the unanimous view of legal scholars.

For example, Professor Gary McDowell has argued that the independent counsel does have the capacity to indict a sitting President. In the Wall Street Journal of March 9, 1998, Professor McDowell, who is a director of the Institute of the United States Studies at the University of London, says yes, in a rather well-written piece, yes, you can indict the President. Jack Quinn says, ''Clinton can avoid the Starr Chamber,'' basically saying you can't.

Perhaps the most well-known constitutional scholar in America with whom I sometimes agree and with whom I often disagree is Professor Larry Tribe. Now, Lawrence Tribe, in his ''American Constitutional Law'' text, admits that the question must be regarded as an open one, saying that, with respect to whether or not you can proceed against a President in a criminal proceeding, ''the question must be regarded as an open one, but the burden should be on those who insist that a President is immune from criminal trial prior to impeachment and removal from office.''

Interesting. That is one of the most noted constitutional legal scholars in the United States saying that while he thinks the question is an open one, that those who want to say that there is immunity here have the real burden of making the case.

This is a constitutional question of the highest order. The answer provides insights into whether the President is subject to the criminal laws applicable to the citizenry of America. The answer also informs whether a popular President—or a President whose party has a secure congressional majority or a President whose value to other individuals in office would make them reluctant to involve themselves in impeachment proceedings—could ever be held accountable for violations of the law.

Perhaps early in a term a President is alleged to have done something, does the statute of limitations run, and if it runs before the term is over and the Congress decides to turn its head, does that mean there is absolutely no requirement that the President adhere to the law, respond to the law, be involved and uphold the law in the same way as other citizens are?

I think these questions are very serious questions, and they are questions that demand resolution. I think an inquiry is important to begin the process of resolving these questions.

There are also important subsidiary questions about whether the President is subject to a criminal process that should be examined. On August 17, the Nation will witness the spectacle of a sitting President providing grand jury testimony.

He is going to do it pursuant to a negotiated agreement. The President will appear, but he is going to be available for questions for a single day and will have the benefit of legal counsel. By doing so, by agreeing, he has deferred a legal resolution of these issues. I am, frankly, happy that the President has decided, at least in this measure, to make himself available. This negotiated agreement for the President to appear for a single day has deferred a confrontation over the ultimate constitutional question of whether a sitting President must comply with a grand jury subpoena. But this question may not go away.

In the event that a single day proves insufficient, for example, to resolve all the questions that Judge Starr has for the President, this unresolved question could resurface.

The importance of this question also goes beyond the context of this particular dispute over alleged Presidential perjury, or a series of other alleged Presidential acts relating to perjury and obstruction of justice. I have here an opinion piece by one of President Clinton's former White House counsels, Jack Quinn—to which I have referred already—in which Mr. Quinn argues that the President is not obligated to comply with the ordinary criminal process and is free to ignore a grand jury subpoena—to simply say: I don't participate in enforcing the law. If I have information about a crime that might have been committed, or evidence about it, I don't have to do that, I am the President.

That is a sweeping proposition, and I think it is one that the Congress should examine, particularly as we move toward the possible reauthorization of the Independent Counsel Act. I plan to bring in a number of constitutional scholars to address these critical issues and these yet unanswered questions.

Frankly, I do not mean to prejudge these issues. However, they are too important to leave unexamined. The answers to these questions may well inform the progress of Judge Starr's investigation and shape the difficult question of what the House should do if a report from Judge Starr does not arrive until the eve of adjournment.

The events of the past 6 months have raised many novel questions about the scope of the powers and privileges of the President. These are important questions and they are not easy to resolve. And in our system of separated powers, the answers to these questions also determine the scope and the power of Congress, and they will also determine, in some measure, the scope and the power of protection offered to the people. The answers will determine whether the people deserve to be protected by virtue of prosecuting those who offend the law even if Congress chooses not to be involved in proceedings which it had the opportunity to pursue, like impeachment. Congress cannot be a mere bystander in these debates. Congress has an important responsibility to use its investigatory functions to shed light on these important and unresolved questions. It is time for Congress to stop looking at the polls and to start looking at the Constitution.

I hope these hearings will provide important insights into the extent to which the President must comply with criminal process. I believe every other American has the responsibility to comply, and it is a serious question to determine whether or not the President has the responsibility of being a citizen, as well as being the President. So I look forward to sharing this discussion with other members of the Constitution Subcommittee and to chairing these hearings to help clarify these issues at a time when we need this clarity, either in reformulating our view on the independent counsel statute, or as it relates to events that are unfolding at the other end of Pennsylvania Avenue. I believe that a discussion of these issues will advance our capacity to understand the appropriate balance that is necessary for the maintenance of freedom and the responsibilities that come with the privileges that we enjoy as free people.

I yield the floor.

Mr. GRAMS addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota, Mr. GRAMS, is recognized.

Mr. GRAMS. Mr. President, I ask unanimous consent to be able to speak for as much time as I may consume.

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

## THE CRISIS IN SUDAN

Mr. GRAMS. Mr. President, as an original cosponsor of the sense-of-the-Senate on providing humanitarian relief to the Sudan, I believe it is important that we focus on the tragedy that is unfolding before our eyes. The people of southern Sudan are starving. Khartoum is using the denial of food as a weapon in its war against the rebels in the south—and we are letting the government of Sudan get away with this odious practice by allowing Khartoum to have a veto over aid deliveries.

Sudan has been torn by a devastating civil war between the Muslim north and the predominantly Christian and animist south for most of history since independence. The current phase of the war started in 1983 when the then-President embarked on an Islamization program. Recurring famine is just one of the tragic outcomes of Khartoum's brutal method of warfare where women, children, and livestock are taken as prizes of war. It has also resulted in institutionalized slavery, more than 4 million internally displaced people, and more than 1.5 million casualties in the past 14 years.

Our State Department lists Sudan as a terrorist state. We have sanctions on Sudan which prohibit American investment. But we respect the right of the

National Islamic Front regime in Khartoum to veto the delivery of humanitarian relief to the south. That just doesn't make sense.

Most of the aid flowing to southern Sudan is through non-governmental organizations (NGOs) participating in a United Nations relief program, Operation Lifeline Sudan (OLS). While traveling through east Africa in December, I had the opportunity to visit the OLS Southern Sector headquarters and see firsthand the efforts of the NGOs. These NGOs are on the ground, along with UNICEF, mounting a heroic effort to distribute aid to these starving people. And I know that many of them share my frustration with the UN's political agreement with the government of Sudan which allows Khartoum to have the final say in the distribution of aid to the south. This has resulted in the starvation of citizens and soldiers alike when Khartoum decides it is advantageous to halt the delivering of aid.

For the past few years, Khartoum has restricted flights during the planting season so that aid organizations cannot deliver the seeds and tools necessary to help the people of southern Sudan feed themselves. This year Khartoum went a step further. Khartoum didn't just restrict flights. It banned relief flights in the Bahr el Ghazal region. It should be no surprise that another poor harvest is predicted in the Fall. According to the UN World Food Program, 2.6 million people in Southern Sudan are in imminent peril of starvation. Quite frankly, until we can find a way to deliver seeds and tools to southern Sudan during planting season, I see this cycle of famine continuing indefinitely. This is a warfare tactic of cowards.

The flight ban wasn't the only problem that OLS had in delivering aid effectively. When the flight ban was lifted and aid could once again be provided, OLS faced another barrier put in its way by Khartoum. OLS was forced to wait for Khartoum's permission to add four Ilyushin cargo planes to the handful of C–130s that deliver relief supplies to southern Sudan. Any agreement by the United Nations which permits Khartoum a veto over the number of relief planes as well as when and where they can fly is fatally flawed. The President should aggressively seek to change the terms of this agreement which restricts the ability of Operation Lifeline Sudan to distribute aid effectively to southern Sudan.

As chairman of the International Operations subcommittee, I have to say I hold little hope that the United Nations will take any significant steps in this direction. That leaves, of course, the option of unilateral action by the United States to bypass Khartoum's veto. Currently, U.S. AID funnels aid to Sudan almost exclusively through OLS-affiliated groups. That must change if we are to have any chance to effectively combat the use of starvation as a tactic of war. The United States government shouldn't just cooperate with these non-OLS groups when Khartoum institutes restrictions on the delivery of aid—as we did during the Bahr El Ghazal flight ban. The United States should actively assist and develop relief distribution networks outside of Operation Lifeline Sudan's umbrella which are not subject to the whims of Khartoum. If we don't, yet another planting season will pass without seeds being sown, and hundreds of thousands of more people will starve.

## SOLUTIONS TO THE SOCIAL SECURITY CRISIS

Mr. GRAMS. Mr. President, during the past few weeks, I have made a series of remarks on the Senate floor concerning Social Security. I discussed the history of Social Security, the program's looming crisis, the old-age insurance reform efforts taken by other nations, and the financial gender and race gaps created by the current Social Security system.

Today, I will sum up the major points I have made so far and then move on to speak about possible solutions to Social Security's problems, and the principles of reform we must uphold as we move forward.

The concept of ''social security'' originated in Europe in the 1880s. It was devised supposedly to correct the problems created by laissez faire capitalism, to avoid a Marxist-led revolution. Social Security was not an American experience. In fact, a very small group of intellectuals promoted and designed the Social Security program in this country. Congress hastily passed the Social Security Act less than seven months following its introduction in 1935. The public never got the chance to participate in the debate.

At the time, many Members of Congress from both sides of the aisle raised serious questions about the program. Unfortunately, many of their prophecies have become reality today. Senator Bennett Clark, a Democrat from Missouri, recognized the non-competitive nature of Social Security and offered an amendment to allow companies with private pensions to opt out of the public program. Workers would be given the freedom to choose either the federal Social Security program or a private pension plan offered by their employers.

The Clark amendment received popular support in the Senate, but was dropped from the conference report with the promise it would be reconsidered immediately the following year. It was not—that promise was broken, the first of many broken promises that plague us today.

In the 60 years following its creation, despite continued questions and criticism, the Social Security system has grown dramatically in size and scope. As more beneficiaries and more programs are added, Congress has raised the payroll tax 51 times.

In 1964, Ronald Reagan was among the first to suggest investing Social Security funds in the market. But no one took his advice seriously.

Then, in 1977 and 1983, Social Security ran into major crises, and Congress had no choice but to pass Social Security rescue packages that significantly increased taxes. Washington promised that Social Security would remain solvent for another 75 years. Today, another Social Security crisis is imminent. Unlike the previous two crises, however, the coming crisis will have a profound and devastating impact on our national economy, our society, and our culture.

The Social Security program's $20 trillion—that is a large number—$20 trillion—in unfunded liabilities have created an economic time bomb that threatens to shatter our economy. Beginning in 2008, 74 million baby-boomers will become eligible for retirement and the system will begin to collapse.

The problem begins with the fact that the current Social Security system is a ''pay-as-you-go'' entitlement program. The money a worker pays in today is used to support today's retirees—there are no individual accounts waiting for future retirees to dip into. This was not a problem in 1941, when there were 100 workers to support every beneficiary. It is a tremendous problem in 1998, when only two workers support each beneficiary.

These factors all lead to the conclusion that the Social Security Trust Fund will go broke by 2032 if we continue on our present course. If the economy takes a turn for the worse, or if the demographic assumptions are too optimistic, the Trust Fund could go bankrupt even earlier. Without real reform, the Congressional Budget Office and the General Accounting Office estimate the debt held by the public will consume up to 200 percent of our national income within the next 40–50 years.

A national debt at this level would shatter our economy—and shatter our children's hopes of obtaining the American dream.

Mr. President, retirement security programs worldwide, not just here in the United States, will face a serious challenge in the 21st Century due to a massive demographic shift that is now underway. The World Bank recently warned that, across the globe, ''old-age systems are in serious financial trouble and are not sustainable in their present form.''

While Congress has yet to focus on this problem, many other countries have moved far ahead of us in taking steps to reform their old-age retirement systems. Some of these international efforts are extremely successful. Chile and Great Britain are excellent examples.

Back in the late 1970s, after Chile realized that its publicly financed, pay-as-you-go retirement system would go broke, it replaced it with a system of