

also enter a non-waiver agreement with respect to disclosure of these notes and related testimony.

We have said all along that we are prepared to make the notes public; that all we need is an assurance that other investigative bodies will not use this as an excuse to deny the President the right to lawyer confidentiality that all Americans enjoy. The response of the House Committee Chairmen suggests our concern has been well-founded.

If our primary objective in pursuing this exercise is to obtain the notes, we need to work together to achieve that result. You earlier stated that you were willing to urge the Independent Counsel to go along with a non-waiver agreement. We ask that you do the same with your Republican colleagues in the House. Be assured: as soon as we secure an agreement from the House, we will give the notes to the Committee.

Mr. Chertoff has informed me that the Committee will not acknowledge that a reasonable claim of privilege has been asserted with respect to confidential communications between the President's personal lawyer and White House officials acting as lawyers for the President. In view of the overwhelming support expressed by legal scholars and experts for the White House position on this subject, we are prepared simply to agree to disagree with the Committee on this point.

Accordingly, the only remaining obstacle to resolution of this matter is the House.

Sincerely yours,

JANE C. SHERBURNE,  
*Special Counsel to the  
President.*

Mr. SARBANES. I thank the Chair.

She indicates in the letter that the President is prepared to turn over these notes as soon as they can achieve a formal waiver agreement with the House. They have such an agreement with our committee. We have indicated that is acceptable to us. And they apparently reached such an understanding with the independent counsel. In fact, this letter says:

We have succeeded in reaching an understanding with the independent counsel that he will not argue that turning over the Kennedy notes waives the attorney-client privilege claimed by the President. With this agreement in hand, the only thing standing in the way of giving these notes to your committee is the unwillingness of Republican House chairmen similarly to agree.

I understand they are going to be meeting with the House chairmen this afternoon, and hopefully out of that an understanding can be reached because the White House has indicated they are prepared to turn these notes over if they can get these agreements. They have an understanding with our committee; they have an understanding with the independent counsel, and the other relevant body where they need an understanding is with the House committees. And I gather that matter is being worked on, and hopefully it will be worked on in a successful way.

So I just wanted to enter this letter into the RECORD and make those comments in light of the observations that were just made.

I notice that Senator BYRD is in the Chamber.

I would like to say to the chairman, I take it Senator GRAMS would seek recognition next, is that correct, after Senator BYRD?

Mr. D'AMATO. Correct. Yes.

Mr. SARBANES. Could we then recognize Senator LEAHY after Senator GRAMS?

Mr. D'AMATO. Certainly.

Mr. SARBANES. I ask unanimous consent that following Senator BYRD, Senator GRAMS be recognized and following Senator GRAMS, Senator LEAHY be recognized.

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

Mr. D'AMATO addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. D'AMATO. If I might intrude for 30 seconds upon my friend and colleague from West Virginia, I think it is important to note I mentioned that on March 8 the President had a press conference made in connection with the appointment of Lloyd Cutler and specifically as it related to the question of bringing up privilege said it was hard for him to imagine any circumstance which would be appropriate.

That this took place almost 4 months to the day after, 4 months and 3 days after this meeting, it is inconceivable that the President was not aware of this meeting where his personal attorneys were in attendance. So this is not a question—it seems to me this would not be an extraordinary circumstance. This was the circumstance and the fact he was aware of when he indicated that he would not raise the issue of privilege.

I just thought it was important to note that for the RECORD. I yield the floor.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER (Mr. GORTON). The Senator from West Virginia is recognized under the previous order.

Mr. BYRD. Mr. President, I thank the Chair.

Mr. President, has the Pastore rule run its course?

The PRESIDING OFFICER. The Pastore rule has run its course.

Mr. BYRD. I thank the Chair. Then I shall speak out of order, that being my privilege, in view of the fact that there is no controlled time at the moment.

Mr. President, I speak today with apologies to the two managers of the pending resolution.

Mr. President, I should also state to Senators that I expect to speak for no less than 45 minutes.

#### CIVILITY IN THE SENATE

Mr. BYRD. Mr. President, I speak from prepared remarks because I wanted to be most careful in how I chose my words and so that I might speak as the Apostle Paul in his epistle to the Colossians admonished us to do:

Let your speech be always with grace, seasoned with salt, that ye may know how ye ought to answer every man.

Mr. President, I rise today to express my deep concern at the growing incivility in this Chamber. It reached a peak of excess on last Friday during

floor debate with respect to the budget negotiations and the Continuing Resolution. One Republican Senator said that he agreed with the Minority Leader that we do have legitimate differences. "But you do not have the guts to put those legitimate differences on the table," that Senator said. He went on to state, "and then you have the gall to come to us and tell us that we ought to put another proposal on the table." Now, Mr. President, I can only presume that the Senator was directing his remarks to the Minority Leader, although he was probably including all members on this side of the aisle. He also said that the President of the United States "has, once again, proven that his commitment to principle is non-existent. He gave his word; he broke his word. It is a habit he does not seem able to break."

Mr. President, I do not know what the matter of "guts" has to do with the Continuing Resolution or budget negotiations. Simply put, those words are fighting words when used off the Senate floor. One might expect to hear them in an alehouse or beer tavern, where the response would likely be the breaking of a bottle over the ear of the one uttering the provocation, or in a pool hall, where the results might be the cracking of a cue stick on the skull of the provocator. Do we have to resort to such language in this forum? In the past century, such words would be responded to by an invitation to a duel.

And who is to judge another person's commitment to principle as being non-existent?

I am not in a position to judge that with respect to any other man or woman in this Chamber or on this Earth.

Mr. President, the Senator who made these statements is one whom I have known to be amiable and reasonable. I like him. And I was shocked to hear such strident words used by him, with such a strident tone. I hope that we will all exercise a greater restraint upon our passions and avoid making extreme statements that can only serve to further polarize the relationships between the two parties in this Chamber and between the executive and legislative branches. By all means, we should dampen our impulses to engage in personal invective.

Another Senator, who is very new around here, made the statement—and I quote from last Friday's RECORD: "This President just does not know how to tell the truth anymore," and then accused the President of stating to "the American public—bald-faced untruths." The Senator went on to say that, "we are tired of stomaching untruths over here. We are downright getting angry over here"—the Senator was speaking from the other side of the aisle. Then with reference to the President again, the Senator said, "This guy is not going to tell the truth," and then proceeded to accuse the President "and many Senators"—"and many Senators"—of making statements that

tax cuts have been targeted for the wealthy, "when they know that is a lie." Now, the Senator said, "I am using strong terms like 'lie.'" Then the Senator made reference to a lack of statesmanship: "When are we going to get statesmen again in this country? When are we going to get these statesmen here in Washington again?" And then answering his own question, he said, "they are here," presumably, one would suppose, referring to himself as one such statesman.

Mr. President, such statements are harsh and severe, to say the least. And when made by a Senator who has not yet held the office of Senator a full year, they are really quite astonishing. In my 37 years in this Senate, I do not recall such insolence, and it is very sad that debate and discourse on the Senate floor have sunk to such a low level. The Senator said, "We are downright getting angry over here." Now, what is that supposed to mean? Does it mean that we on this side should sit in fear and in trembling because someone is getting downright angry? Mr. President, those whom God wishes to destroy, he first makes mad. Solomon tells us: "He that is slow to anger is better than the mighty; and he that ruleth his spirit than he that taketh a city."

Moreover, Mr. President, for a Senator to make reference on the Senate floor to any President, Democrat or Republican, as "this guy" is to show an utter disrespect for the office of the presidency itself, and is also to show an uncaring regard for the disrespect that the Senator brings upon himself as a result. "This guy is not going to tell the truth," the Senator said, and then he proceeded to state that the President "and many Senators" have made statements concerning tax cuts—and that would include almost all Senators on this side, because almost all of us have so stated—that "they know that is a lie,"—and I am quoting—that "they know that is a lie"—admitting, the Senator said, that the word "lie" is a strong term. I have never heard that word used in the Senate before in addressing other Senators. I have never heard other Senators called liars. I have never heard a Senator say that other Senators lie.

Mr. President, the use of such maledicent language on the Senate floor is quite out of place, and to accuse other Senators of being liars is to skate on very, very thin ice, indeed.

In his first of three epistles, John admonishes us: "He that saith, I know him, and keepeth not his commandments, is a liar, and the truth is not in him." Mr. President, it seems to me that by that standard, all of us are certainly—or certainly most of us fall into the classification of liar, and before accusing other Senators of telling a lie, one should "cast first the beam out of thine own eye, and then shalt thou see clearly to pull out the mote that is in thy brother's eye."

Mr. President, can't we rein in our tongues and lower our voices and speak

to each other and about each other in a more civil fashion? I can disagree with another Senator. I have done so many times in this Chamber. I can state that he is mistaken in his facts; I can state that he is in error. I can do all these things without assaulting his character by calling him a liar, by saying that he lies. Have civility and common courtesy and reasonableness taken leave of this Chamber? Surely the individual vocabularies of Members of this body have not deteriorated to the point that we can only express ourselves in such crude and coarse and offensive language. The proverb tells us that "A fool uttereth all his mind; but a wise man keepeth it in till afterwards." Can we no longer engage in reasoned, even intense, partisan exchanges in the Senate without imputing evil motives to other Senators, without castigating the personal integrity of our colleagues? Such utterly reckless statements can only poison the waters of the well of mutual respect and comity which must prevail in this body if our two political parties are to work together in the best interests of the people whom we serve. The work of the two Leaders, the work of Mr. DOLE, the work of Mr. DASCHLE, is thus made more difficult. There is enough controversy in the natural course of things in this bitter year, without making statements that stir even greater controversy and divisiveness.

"If a House be divided against itself, that House cannot stand," we are told in Mark's Gospel. Surely the people who see and hear the Senate at its worst must become discouraged and throw up their hands in disgust at hearing such sour inflammatory rhetoric, which exhales itself fuliginously. What can our young people think—they listen to C-SPAN; they watch C-SPAN. What can our young people think when they hear grown men in the premiere upper body among the world's legislatures casting such rash aspersions upon the President of the United States and upon other Senators? Political partisanship is to be expected in a legislative body—we all engage in it—but bitter personal attacks go beyond the pale of respectable propriety. And let us all be scrupulously mindful of the role that vitriolic public statements can play in the stirring of the dark cauldron of violent passions which are far too evident in our land today. Oklahoma City is but 8 months behind us. Washington, in his farewell address, warned against party and factional strife. In remarks such as those that were made last Friday, we are seeing bitter partisanship and factionalism at their worst. I hope that the leaders of our two parties will attempt to impress upon our colleagues the need to tone down the rhetoric and to avoid engaging in vicious diatribes that impugn and question the motives and principles and the personal integrity of other Senators and of the President of the United States.

It is one thing to criticize the policies of the President and his administration. I have offered my own strong criticism of President Clinton and past Presidents of both parties in respect to some of their policies. I simply do not agree with some of them. But it is quite another matter to engage in personal attacks that hold the President up to obloquy and opprobrium and scorn. Senators ought to be bigger than that. Anyone who thinks of himself as a gentleman ought to be above such contumely. The bandying about of such words as liar, or lie, can only come from a contemptuous lip, and for one, who has been honored by the electorate to serve in the high office of United States Senator, to engage in such rude language arising from haughtiness and contempt, is to lower himself in the eyes of his peers, and of the American people generally, to the status of a street brawler.

Mr. President, in 1863, Willard Saulsbury of Delaware, in lengthy remarks, referred to President Abraham Lincoln as a "weak and imbecile man" and accused other Senators of "blackguardism." Saulsbury was ruled out of order by the Vice President who sat in the Chair and ordered to take his seat. Another Senator offered a resolution the following day for his expulsion, but Saulsbury appeared the next day and apologized to the Senate for his remarks, which were quite out of order, and that was the end of the matter. Senators should take note of this and try to restrain their indulgence for outlandish and extreme accusations and charges in public debate on this floor.

The kind of mindless gabble and rhetorical putridities as were voiced on this floor last Friday can only create bewilderment and doubt among the American people as to our ability to work with each other in this Chamber. And that is what they expect us to do. Certainly these are not the attributes and marks of a statesman. Statesmen do not call each other liars or engage in such execrations as fly from pillar to post in this Chamber. I have seen statesmen during my time in the Senate, and they have stood on both sides of the aisle. They have stood tall, sun-crowned, and above the fog in public duty and in private thinking—above the fog of personal insinuations and malicious calumny.

The Bob Tafts, the Everett Dirksens—I have seen him stand at that desk—the Everett Dirksens, the Norris Cottons, the George Aikens, the Howard Bakers, the Jack Javitses, the Hugh Scotts, or the John Heinzes of yesteryear did not throw the word "lie" in the teeth of their colleagues. Nor do such honorable colleagues who serve today as THAD COCHRAN, MARK HATFIELD, TED STEVENS, JOHN CHAFFEE, ARLEN SPECTER, NANCY KASSEBAUM, BILL COHEN, ORRIN HATCH, JOHN WARNER, DIRK KEMPTHORNE, ALAN SIMPSON—oh, there is one I will miss when he leaves this Chamber—and many

other Senators on that side of the aisle. BOB BENNETT of Utah recognized the rhetorical cesspool for what it was last Friday and he kept himself above it. He took note of it. I have never heard our majority leader, I have never heard our minority leader, I have never heard any majority leader or minority leader accuse other Senators of lying. I am confident that our leaders and most Senators find such gutter talk to be unacceptable in this forum.

Mr. President, in 1986, I helped to open the Senate floor to the televising of Senate debate. On the whole, I think it has worked rather well. I believed then and I still believe that TV coverage of Senate debate can and should educate and inspire the American people. But in my 37 years in the United States Senate, this has been a different year. William Manchester in his book "The Glory and the Dream" speaks of the year 1932 as the "cruellest year." I was a boy growing up in the Depression in 1932. I remember it as the cruellest year. But, Mr. President, in some ways, I think this year has been even more cruel. I have seen the Senate deteriorate this year. The decorum in the Senate has deteriorated, and political partisanship has run rife. And when the American people see and hear such intellectual pemmican as was spewed forth on this floor last Friday, no wonder there is such a growing disrespect for Congress throughout the country. The American people have every right to think that we are just a miserable lot of bickering juveniles, and I have come to be sorry that television is here, when we make such a spectacle of ourselves. When we accuse our colleagues of lying—I have never done that. I have never heard it done in this Senate before. Clay and John Randolph fought a duel over less than that. Aaron Burr shot and killed Alexander Hamilton for less than that. When we accuse our colleagues of lying and deliver ourselves of reckless imprecations and vengeful maledictions against the President of the United States, and against other Senators, it is no wonder—no wonder—that good men and women who have served honorably and long in this body are saying they have had enough! They may not go out here publicly and say that, but they have had enough.

Mr. President, it is with profound sadness that I have taken the Floor today to express my alarm and concern at the poison that has settled in upon this chamber. There have been giants in this Senate, and I have seen some of them. Little did I know when I came here that I would live to see pygmies stride like colossuses while marveling, like Aesop's fly, sitting on the axle of a chariot, "My, what a dust I do raise!"

Mr. President, party has a tendency to warp intelligence. I was chosen a Senator by a majority of the people of West Virginia seven times, but not for a majority only. I was chosen by a party, but not for a party. I try to represent all of the people of the state—

Democrats and Republicans—who sent me here. I recognize no claim upon my action in the name and for the sake of party only. The oath I have taken 13 times, and in my 50 years of public service, is to support and defend the Constitution of my country's government, not the fiat of any political organization. This is not to say that political party is not important. It is. But party is not all important. Many times I have said that, and I have said that there are several things that are more important than political party. Sometimes as I sit and listen to Senate debate, I get the impression that to some of us, political party is above everything else. I sometimes get the impression that, more important than what serves the best interests of our country is what serves the political fortunes of a political party in the next elections. This Senate was not created for that purpose. This is not a forum that was created for the purpose of advancing one's political career or one's political party. In the day that the Senate was created, no such thing as political party in the United States was even a consideration. None of our forebears who created our republican form of government was for a party, but all were for the state. Political parties were formed afterward and have grown in strength since, and today the troubles that afflict our country, in many ways, chiefly may be said to arise from the dangerous excess of party feeling in our national councils. What does reason avail, when party spirit presides?

The welfare of the country is more dear than the mere victory of party. As George William Curtis once said, some may scorn this practical patriotism as impracticable folly. But such was the folly of the Spartan Leonidas, holding back, with his 300, the Persian horde, and teaching Greece the self reliance that saved her. Such was the folly of the Swiss Arnold von Winkelried, gathering into his own breast the points of Austrian spears, making his dead body the bridge of victory for his countrymen. Such was the folly of Nathan Hale, who, on September 22, 1776, gladly risked the seeming disgrace of his name, and grieved that he had but one life to give for his country. Such was the folly of Davy Crockett and 182 other defenders of the Alamo who were slain after holding out 13 days against a Mexican army in 1836, thus permitting Sam Houston time enough to perfect plans for the defense of Texas. Such are the beacon lights of a pure patriotism that burn forever in men's memories and shine forth brightly through the illuminated ages. What has happened to all of that?

Mr. President, when our forefathers were blackened by the smoke and grime at Shiloh and at Fredericksburg, they did not ask or care whether those who stood shoulder to shoulder beside them were Democrats or Republicans; they asked only that they might prove as true as was the steel in the rifles that they grasped in their hands. The

cannonballs that mowed brave men down like stalks of corn were not labeled Republican cannonballs or Democrat cannonballs. When those intrepid soldiers fought with unfailing loyalty to General Thomas J. Jackson—who was born in what is now Harrison County, West Virginia—who stood like a wall of stone in the midst of shot and shell at the first battle of Bull Run, they did not ask each other whether that brave officer, who later fell the victim of a rifle ball, was a Democrat or Republican. They did not pause to question the politics of that cool gunner standing by his smoking cannon in the midst of death, whether the poor wounded, mangled, gasping comrades, crushed and torn, and dying in agony all about them—had voted for Lincoln or Douglas, for Breckinridge or Bell. No. They were full of other thoughts. Men were prized for what they were worth to the common country of us all, not for the party to which they belonged. The bones that molder today beneath the sod in Flanders Field and in Arlington Cemetery do not sleep in graves that are Republican or Democrat. These are Americans who gave their lives in the service of their country, not in the service of a political party. We who serve together in this Senate, must know this in our hearts.

I understand, and we understand, that partisanship plays a part in our work here. There is nothing inherently wrong with that. There is nothing inherently wrong with partisanship. But I hope that we will all take a look at ourselves on both sides of this aisle and understand also that we must work together in harmony and with mutual respect for one another. This very charter of government under which we live was created in a spirit of compromise and mutual concession. And it is only in that spirit that a continuance of this charter of government can be prolonged and sustained. When the Committee on Style and Revision of the Federal Convention of 1787 had prepared a digest of their plan, they reported a letter to accompany the plan to Congress, from which I take these words: "And thus the Constitution which we now present is the result of a spirit of amity and of that mutual deference and concession which the peculiarity of our political situation rendered indispensable."

Mr. President, Majorian, the Emperor of the West, in 457 A.D. said he was a prince "who still gloried in the name of Senator."

Mr. President, as one who has gloried in the name of Senator, I shudder to think of the day when, because of the shamelessness and reckless intemperance of a few, I might instead become one who is embarrassed by it.

Let us stop this seemingly irresistible urge to destroy all that we have always held sacred. Let us cease this childish need to resort to emotional strip-tease on the Senate Floor.

Let us remember that we are lucky enough to reside in the greatest country on earth and to have the further

fortune to have been selected by the American people to actively participate as their representatives in this miraculous experiment in freedom which has set the world afire with hope.

Mr. President, there are rules of the Senate and we simply cannot ignore those rules. We must defend them and cherish them. I will read to the Senate what Vice President Adlai E. Stevenson said with regard to the Senate's rules on March 3, 1897, because I believe his observation is as fitting today as it was at the end of the 19th century:

It must not be forgotten that the rules governing this body are founded deep in human experience; that they are the result of centuries of tireless effort in legislative hall, to conserve, to render stable and secure, the rights and liberties which have been achieved by conflict. By its rules the Senate wisely fixes the limits to its own power. Of those who clamor against the Senate, and its methods of procedure, it may be truly said: "They know not what they do." In this Chamber alone are preserved, without restraint, two essentials of wise legislation and of good government—the right of amendment and of debate. Great evils often result from hasty legislation; rarely from the delay which follows full discussion and deliberation. In my humble judgment, the historic Senate—preserving the unrestricted right of amendment and of debate, maintaining intact, the time-honored parliamentary methods and amenities which unflinchingly secure action after deliberation—possesses in our scheme of government a value which cannot be measured by words.

Mr. President, we must honor these rules. The distinguished Presiding Officer today, SLADE GORTON of Washington, respects and honors these rules. We simply have to stop this business of castigating the integrity of other Senators. We all have to abide by these rules.

Mr. President, may a temperate spirit return to this chamber and may it again reign in our public debates and political discourses, that the great eagle in our national seal may continue to look toward the sun with piercing eyes that survey, with majestic grace, all who come within the scope and shadow of its mighty wings.

I yield the floor.

The PRESIDING OFFICER. The Democratic leader is informed under the previous order the next Senator to be recognized was the Senator from Minnesota [Mr. GRAMS].

Mr. DASCHLE. Mr. President, I ask unanimous consent to speak out of order for 2 minutes.

Mr. LOTT. Mr. President, I also ask to be allowed to speak out of order for 5 minutes. I do think that this has been a very important discourse, but I do think it is important that a response be heard from both sides of the aisle.

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

Mr. DASCHLE. I want to thank, first, the Senator from Minnesota for accommodating my unanimous-consent request.

I begin by saying I believe the Senate owes a debt of gratitude to the distin-

guished Senator from West Virginia for the appropriate lecture that he has given each and every one of us. That speech ought to be reprinted and sent to every civics class in the country. It ought to be reprinted and sent to every legal function that is held for the next several weeks, and perhaps most importantly it ought to be reprinted and sent to every U.S. Senator and Congressman sitting today. It ought to be reread. It ought to be studied. It ought to be respected. Never has his wisdom, clarity of his reasoning or his eloquence been more evident. It needed to be said.

The distinguished Senator from West Virginia mentioned many giants, past and present, of the U.S. Senate. I add to that list the name ROBERT C. BYRD, a Senator motivated by a profound respect for this institution, a Senator driven by a profound belief in what is right, what is good, and what is so critical in this remarkable institution.

Today, he is right. We have lost civility. The need for bipartisan spirit, as we debate the critical issues of the day, could never be more profound and more important. Excessive partisanship is as destructive to this institution as violence is to ourselves.

So I express the gratitude of many who have had the good fortune this afternoon to have heard his remarkable words. I simply urge each of our colleagues to reread his remarks, to think of them carefully, and to listen to them and take the advice. I yield the floor.

The PRESIDING OFFICER. Under the previous order, the Senator from Mississippi is recognized.

Mr. LOTT. Mr. President, I, too, came to the floor and listened to the entire presentation by the distinguished Senator from West Virginia. I knew it would be illuminating. No Senator, I am sure, knows as much about the history, the record, the decorum in this institution than the Senator from West Virginia. And he very often comes and reminds us of history and how it should relate to what we are doing today. I always find it extremely interesting. And he laces his remarks with quotations from history, from great statesmen, from the Bible. They are all woven together beautifully and we are all indebted for his presentations.

And I agree that it is timely and that we should all take stock of what he had to say, his admonitions, on both sides of the aisle.

I have been in this city, now, for 27 years—4 years as a staff member to the chairman of the Rules Committee in the House of Representatives, a Democrat; 16 years in the House of Representatives, including 8 years as the minority whip, and 7 years in the Senate. I remember how civility collapsed in the House of Representatives during the latter part of those years; the second half of the 1980's, 1985, 1986, 1987. I remember the night I decided to run for this body. It became so uncivil that the Members were literally shouting at

each other. A vote was held open for over 30 minutes so that one Member from Texas could be brought back to the Chamber and, in effect, forced to switch his vote. I was ashamed of our conduct. I was ashamed of my own conduct that night. And I said there has to be a better place than this. I hoped I would find it here.

I remember one time in the House of Representatives, when the Speaker of the House of Representatives came from the chair down into the well, and impugned the integrity of a Member of the House of Representatives. And I rose to my feet and demanded that the Speaker's words be taken down, and the acting Speaker had to rule that the Speaker of the institution was out of order, at which point I asked unanimous consent that the RECORD be expunged of his remarks and we be allowed to proceed. He was out of order. I know about excessive partisanship, excessive rhetoric, and the breakdown of civility. I have seen it as a staff member, as a House Member.

And now we come to this body. It is a body that we should all have reverence for, and that is what the Senator from West Virginia seeks. It is a body that has always prided itself in respect for each other and for the rights of the individual Senator. I still chafe, sometimes, under the idea that one Senator can tie up this entire institution to the disadvantage of all the rest of us, or one Senator can keep us all waiting while he or she comes to vote and we all stand around, shuffling our feet. But that is this system. It is unique. It is special. While I, as an old House Member, grumble about it, I do not want a Rules Committee over here. I want the Senate to be the Senate. I understand its uniqueness.

So we do not want decorum to slip, and it has been slipping on both sides. But let me suggest that maybe you should think about it on both sides of the aisle. Because I have been seeing it slipping on the other side. The partisanship has been getting heated.

Party is not the most important thing here—not for me, not for most of us. I was a Democrat. I showed that party was not the important thing to me, that my philosophy was more important, because I ran as a Republican after having been raised, I guess, as a Democrat. I am here because I care for the country and because of the things that I think are important for the country.

I submit, one of the reasons why this year has been so tough is because this year we are dealing with big issues, fundamental changes—fundamental changes. I care about them, not because of my party or this President or that President. I care about them because of my daughter and my son. I want to make sure that they have the opportunities that I have had for the rest of their lives. So they do matter.

These are tense intense times. There are differences that really matter. But we do not have to be disrespectful to

each other to disagree. I have a great respect for the distinguished minority leader. I have known him for years, worked with him, talked to him. And the Senator from California, [Mrs. FEINSTEIN] we talk together, we work together. I believe in sharing information. One of the things that bothers me around here sometimes is you cannot get information from either side.

But I think we need to remember that these are important issues and I think maybe part of what is happening here is a little chafing that, after all, after 8 years we have a majority over here. We had it briefly in the 1980's, but there has been a switch back. The minority is just unhappy with not having the votes for their issues.

But when we do get right up in each other's faces on these issues and start using words like "tawdry" and "sleazy," when you are talking about an action of the leader, that is not the way we ought to proceed.

So, whether it is partisanship, or strong political feelings, or words that are too strong, we should all just cool it a little bit. I think, perhaps, as a result of the speech of the Senator from West Virginia and others who feel that we do need to find a way to bring this under control, that we will find a way to do so. I hope we will work in that vein and I certainly will support that effort with my own efforts.

Mr. BYRD. Will the Senator yield?

Mr. LOTT. I do.

Mr. BYRD. The Senator calls to the attention of the Senate the words "tawdry" and "sleazy" that I once used on the floor. Of course he had a purpose in doing that.

May I say, I never called any Senator a liar. I was not talking about the personality of the majority leader in that instance. I was talking about an agreement that had been broken.

I am very careful, I try to be careful, and sometimes I speak in haste. And subsequent to that remark on this very floor one evening, I referred to my having spoken in haste, and to my having used some words, which I wish I had chosen differently. So nobody needs to remind this Senator as to what this Senator has said. I am ready to defend anything I say.

Never once have I said that any Senator lied, or that any Senator was a liar. And I do not intend ever to do that. That is what we are talking about here today.

Mr. LOTT. I agree and we should not be calling each other liars, or other people, or anybody here on the floor. But we all ought to be careful not to skate too close to the edge in the words we use, and try to find a way to make our case positively. I think we can all do that, and I hope that we will strive to do that, on both sides of the aisle, in the future.

I yield the floor.

The PRESIDING OFFICER. Under the previous order, the Senator from Minnesota is entitled to be recognized.

Mr. D'AMATO. Mr. President, if I might, I believe under the previous

order there is a unanimous consent for Senator GRAMS, to be followed by Senator LEAHY.

The PRESIDING OFFICER. The Senator is correct.

Mr. D'AMATO. I ask unanimous consent to expand that, so Senator MACK might be recognized after Senator LEAHY.

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

The Senator from Minnesota.

Mr. GRAMS. Mr. President, as a member of the special committee to investigate Whitewater, I rise today to urge my colleagues to support Senate Resolution 199.

For months, our committee has been trying to get to the bottom of the controversial affair known as Whitewater—the unsavory Arkansas land development deal whose principal investors included the President and the First Lady and which contributed in large part to the \$60 million failure of Madison Guaranty Savings & Loan.

This committee was initially convened to investigate the failure of Madison, which was bailed out at the expense of the taxpayers, and the role that the Clintons' investments in Whitewater may have played in Madison's demise.

But as time has passed and the committee has dug deeper into this matter, new issues regarding the Clinton administration have arisen—issues related to arrogance, abuse of power, lack of accountability to the people, and obstruction of justice.

There is no clearer example of these unseemly traits than the issue facing the Senate today: the President's assertion of the attorney-client privilege to withhold notes taken by a taxpayer-paid public servant at a meeting to discuss Bill Clinton's personal legal problems.

On November 5, 1993, a meeting was held in Washington by seven men—three private attorneys and four White House officials: White House counsel Bernard Nussbaum, associate White House counsels William Kennedy and Neil Eggleston, and White House Personnel Director Bruce Lindsey.

From the information we have been able to collect, the meeting concerned: first, criminal referrals related to Madison Guaranty which named Bill and Hillary Clinton as potential witnesses; and second, the criminal lending practices of Capital Management Services—a federally licensed company which allegedly diverted funds to Whitewater.

When questioned by the special committee, both Mr. Lindsey and Mr. Kennedy refused to discuss the substance of that November 1993 meeting. In addition, Mr. Kennedy refused to provide us with his notes from the meeting, despite evidence showing that these notes may be significantly related to our investigation.

Mr. Kennedy, at the instruction of counsel for both the President and the First Lady, went so far as to ignore a

subpoena from our committee for these notes. Instead, he and the President asserted that the attorney-client privilege protects them from disclosing these notes.

For reasons given by many of my colleagues today, this claim on a legal basis is at best questionable. But in the midst of this important debate over the legal ramifications of the President's abuse of this privilege, I hope that the ethical issues that have surrounded this event will not be ignored.

At the time of this meeting, Mr. Kennedy served as associate White House counsel. Like Mr. Nussbaum, Mr. Eggleston, and Mr. Lindsey, he was paid not by President Clinton, but by the taxpayers. His office was furnished by taxpayers' dollars. His business expenses were covered by taxpayers' dollars.

Given these facts, it is obvious to me that Mr. Kennedy's true clients, the people to whom he owned his legal services, were you and me: the taxpayers. This relationship, however, has still not been honestly recognized by President Clinton.

By asserting privilege over these notes, President Clinton essentially said that Mr. Kennedy worked for him, in spite of the fact that Bill Clinton did not pay Mr. Kennedy's salary. By using this legal tool, Bill Clinton in essence turned his own personal legal bills over to the taxpayers. And that, Mr. President, is dead wrong.

I suppose we should not be too surprised by President Clinton's actions. After all, Mr. Kennedy is just one of many current and former employees of the executive branch involved in this apparent coverup of Whitewater.

During our hearings, we have heard from a number of Federal employees—political appointees and civil servants alike—about their roles in keeping this whole matter quiet and away from the eye of public scrutiny.

It's clear to me and anyone else who has paid attention to our hearings that Bill Clinton has used every tool in his grasp to stonewall this investigation. This use of privilege to shield Mr. Kennedy's notes from the public was the most blatant abuse of power we have seen, but it has not been the only one.

Do not misunderstand me—I believe every citizen, including the President of the United States of America, is entitled to the protections of the attorney-client privilege. But no one, not even the President, has the right to abuse this privilege, especially when doing so means furthering one's personal gain over the public good.

And even with the White House inching toward some sort of agreement, the damage has already been done. The attorney-client privilege has already been asserted to protect not Just Bill Clinton, but also President Clinton.

Today, the Oliver Stone film "Nixon" is opening in theaters across America. I suggest that Bill Clinton arrange a private screening in the White House theater, as it should be most instructive for the future.

What the people hated most about the Watergate scandal was not the amateur break-in at the Democratic National Committee. What they could not tolerate and what led to the resignation of President Nixon was the cover-up, the stonewalling, the fact that the President placed himself above the law.

But Mr. President, even Richard Nixon did not hide behind the attorney-client privilege. Bill Clinton did.

Eighteen-months ago this was something that President Clinton said that he would never do, as we can see from a quote from President Clinton's remarks to a town meeting in Charlotte, NC on April 5, 1994. The President said:

I've looked for no procedural ways to get around this. I say, you tell me you want to know, I'll give you the information. I have done everything I could to be open and aboveboard.

Some have asked why it is so important that the special committee receive access to Mr. Kennedy's notes. I can only answer by asking President Clinton why it was so important to him that these notes not be seen. Why did he go to such lengths as to use privilege as a shield to hide these notes from the public?

Obviously, if there is nothing to hide, there is no reason to keep these notes a secret or to conditionally withhold them. If there is nothing incriminating in these pages, why not disclose them openly and honestly?

The fact of the matter is we will not know until we see them. And if there is something there, these notes may help us piece together the puzzle known as Whitewater.

Because unlike the witnesses from the administration who have been expertly coached to experience suspiciously selective memory during their testimony, these notes cannot hide anything. They cannot duck questions by saying, "My memory fails me" or "I can't recollect at this time."

And maybe that is what scares Bill Clinton the most.

Mr. President, it may surprise you, but I hope that these notes do not incriminate anyone. Like most Americans, I want to think the best of our President.

But we have a responsibility to get to the bottom of this whole affair, because, like everyone who has worked for the Clinton administration, we too are paid by the taxpayers. And we owe it to them to uncover the truth, no matter how dark or unsavory it might be.

That, Mr. President, is what this resolution before the Senate is all about—it is what this entire Whitewater investigation is about: Our obligation to tell the truth, the whole truth and nothing but the truth. I urge the President to unconditionally release these notes.

If he does not, I hope my colleagues will join me in a spirit of honesty and openness in supporting this resolution. We owe the American people that much.

Thank you, Mr. President. I yield the floor.

Mr. LEAHY addressed the Chair.

The PRESIDING OFFICER (Mr. THOMPSON). The Senator from Vermont.

#### THE STATEMENT OF SENATOR BYRD

Mr. LEAHY. Mr. President, I am going to speak about the issue before us on Whitewater, but because of the extraordinary statement by the distinguished senior Senator from West Virginia, I wish to make a few additional comments.

I have been privileged to serve in this body for 21 years with Senator ROBERT C. BYRD. I have been privileged to serve with a number of giants—I consider him one, certainly—but giants on both sides of the aisle, both Republicans and Democrats. I think of the leadership of Senator BYRD, who has served both as majority and minority leader, and how much I appreciate and respect his leadership. I think also of our other Democratic leaders like Mike Mansfield, George Mitchell, and Tom DASCHLE and the great Republican leaders, BOB DOLE and Howard Baker, who have served with such distinction in this body.

I think, as I have been on this floor, of the remarkable opportunity I have been given to serve here. One set of my grandparents came to Vermont and came to these shores not speaking a word of English. My other great-grandparents left a distant country to come to Vermont to seek a better way of life. Both my grandfathers were stonecutters in Vermont. My paternal grandfather died when my father was just a youngster. He died in the stone sheds of Vermont leaving a widow and two children—my grandmother, my father, and his sister.

My father, as a teenager, had to help support the family and never completed the schooling that his son was later able to pursue. He became a self-taught historian, certainly one of the best I ever knew. And he revered and respected the U.S. Senate.

So many times my father would tell me, as I sat here on the floor of the Senate, that this body should be the conscience of our Nation. In my first two terms, when my father was still alive, he was able to come and listen to Senators debate. I remember him repeating almost verbatim statements made by Senators—again, both Republicans and Democrats. He spoke with a sense of admiration of the courage that those men, and now women, show in this body in speaking to the conscience of our Nation. He talked about how this is where leaders of our Nation reside.

Only 15 people in the present Senate have served in this body longer than I. No Democrat has served longer than Senator BYRD. I believe Senator BYRD has done a great service for this body today. I hope that each of us will read and reread what he said, because, in

my 21 years here, I have seen the Senate degenerate. And I do not use that word casually. I have seen some of the finest Members leave, and in leaving say this body is not what it used to be.

People truly respect the Senate. My good friend from Arkansas, Senator PRYOR, who is on the floor today, one whose absence I will feel greatly in the next Congress, and Senator ALAN SIMPSON of Wyoming, another good friend, Senator KASSEBAUM, Senator HATFIELD, Senator BROWN, Senator BRADLEY, Senator NUNN, Senator PELL, Senator SIMON, Senator HEFLIN, and others with whom I have talked—these are people of great experience and great quality—every one of them will tell you the same thing: This Senate has changed.

Mr. President, we owe it to ourselves to listen to what Senator BYRD said, and we owe it to the Senate to listen. More than owing anything to Senator BYRD or me or any other Member, we owe it to the Senate because long after all of us leave, I pray to God this body will still be here. And I pray to God this body will be here as the conscience of the Nation.

If you go back and read the writings of Jefferson, if you go back and read the writings of the founders of this country, you know that this body is a place where ideas should be debated, where the direction of our Nation and the conscience of our Nation should be shaped.

Mr. President, I fear that we are not doing this. I fear that this country will suffer if we do not listen. All of us have a responsibility to listen, Republicans and Democrats alike. Presidents will come and Presidents will go. We will have great Presidents, and we will have Presidents who are not so great. They will come and go. Members of the Senate will come and go, and we will have great Members of the Senate and some not so great. But all of us take the same oath to uphold the Constitution of this great country, and we also come here privileged to help lead this country, but we ought to be humbled by the responsibility that gives us.

I have taken an oath to uphold this country's Constitution four times in this body, and five times as a prosecutor before that. I hold that oath as a very sacred trust. Each one of us ought to ask ourselves if we engage in debate or actions or votes that denigrate that Constitution or denigrate the country or denigrate the most important functions of our Government, do we really deserve to be here? Partisan positions are one thing. Positions that hurt the country are yet another.

So let us listen to what was said here. Let us listen to what was said and let us, each one of us, when we go home tonight or this weekend, ask ourselves what we have done to keep the Senate the institution it should be for the good of our country—not for our individual political fortunes but for the good of the country.

Let us ask ourselves what we have done this year to do that. I do not