Bingaman—Energy savings.
Boxer—(1) Junk guns; (2) Pensions.
Bryan—(1) COLA for judges; (2) White House Travel (w/Levin/Reid); (3) Congressional pension.
Byrd—(1) Telecommuting center/W.VA; (2) Relevant.
Daschle—(1) Congressional employees health insurance; (2) Education; (3) Arson & Explosive repository; (4) Relevant; (5) Relevant; (6) Presidential immunities; (7) Welfare.
Dorgan—Indian Housing.
Feingold—Committee amdt p 129.
Feinstein—(1) Hate crimes (w/Wyden); (2) Relevant; (3) Tagents.
Graham—(1) Medicare receipts using emergency care; (2) Welfare formula fairness.
Hollings—Death benefits.
Kennedy—(1) Physicians gag (w/Wyden); (2) Education; (3) Workers protection; (4) Legal services.
Kerrey—(1) Managers package; (2) IRS review; (3) Relevant.
Kerry-Feinstein—(1) Relevant; (2) Tagents.
Kohl—Gun free school zones.
Lautenberg—Domestic abusers guns.
Levin—(1) White House travel (w/Reid); (2) SoS U.S./Japan auto.
Moseley-Braun—Age discrimination.
Reid—(1) White House Travel (w/Levin); (2) Judges' pay.
Simon—(1) Desalinization; (2) Pension auditing.
Wyden—Physician's gag (W/Kennedy).

Mr. LOTT. Mr. President, I would like to say right here that if there are any additions made to this list, it will be only after consultation and agreement between the two leaders.

That is the request.

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

Mr. LOTT. Mr. President, I thank the leader for his cooperation. It is a rather lengthy list, unfortunately, but now we have, at least, a list we can work on. Hopefully, we will both be able to work through getting these amendments removed if they are not really relevant to this bill.

Mr. DASCHLE addressed the Chair.

The PRESIDING OFFICER. The Democratic leader.

Mr. DASCHLE. Mr. President, let me just say, the majority leader and I have had the opportunity in the last couple hours to talk to our Members and to urge their cooperation in coming forth with prospective amendments. I would emphasize that they are prospective. I hope that in many cases Senators would not feel compelled to offer them. Our hope is that we can resolve this bill some time in the not-too-distant future.

I hope that all of our colleagues can work with us to limit the list of amendments, to limit the debate on the amendments, once they are called up, and to see if we cannot complete our work. I have asked Members of our leadership to work with our caucus in order to put this list together now in a realistic fashion. And I hope that only in those cases where Senators truly felt that it was essential that the amendment be offered on this bill, that it be done so.

So I am urging cooperation, in concert with the majority leader, in the hope that we can come to some completion successfully on this bill some time in the not-too-distant future.

Mr. LOTT. Mr. President, did we get unanimous consent agreement on that?

The PRESIDING OFFICER. Yes.

UNANIMOUS CONSENT AGREEMENT—H.R. 3662

Mr. LOTT. Mr. President, I have another one. Showing full faith and effort to be accommodating to the Senators, and to get agreements that they really desire, I ask unanimous consent that during the Senate's consideration of the Interior appropriations bill, that it not be in order to consider any amendment relative to Ward Valley prior to Tuesday, September 17, 1996. This has been requested by the Senator from California, Senator BOXER. We would like to accommodate that request.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

Mr. THOMAS. I object.

The PRESIDING OFFICER. Objection is heard.

The assistant legislative clerk continued to call the roll.

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

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

TREASURY, POSTAL SERVICE, AND GENERAL GOVERNMENT APPROPRIATIONS ACT, 1997

The Senate continued with the consideration of the bill.

AMENDMENT NO. 5224, AS MODIFIED

Mr. GLENN. Mr. President, it is my understanding we will each use about 5 minutes, and then I think the two leaders want to propose a unanimous-consent request after that. So if we can proceed on that basis, would that be satisfactory with my colleague?

Mr. THOMAS. That is fine.

Mr. GLENN. I ask unanimous consent that we have 5 minutes on a side to wrap this up, and then we will probably go to a vote after that.

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

Mr. GLENN. Mr. President, I want to respond briefly to the comments my colleague made a moment ago. This is a broad act. He said the Economy Act of 1982 is really not working and that is one reason we are putting this in. I don't like putting other legislation that might not work on top of legislation he says is already not working. Let's make work the legislation that is in law now. I am all for that.

Basically, it does what we are proposing here. In fact, I have a copy of that Economy Act of 1982 here, and one of the things provided under section 1335 under ''agency agreements,'' part 4 of paragraph (A) says: ''The head of the agency decides ordered goods or services cannot be provided as conveniently or cheaply by a commercial enterprise already required.''

I agree that should be lived up to. So then we come in with the legislation that my colleague and friend, Senator THOMAS, says is not as broad as I am interpreting it to be, and yet the words in it say that ''except as provided in subsection (B)''—which I will get to in a moment—''none of the funds appropriated under any other act may be used by OMB or any other agency to publish, promulgate or enforce any policy, regulation, circular or any rule or authority in any other form that would permit any Federal agency to provide a commercially available property or service to any other Department of Government unless the policy, regulation, circular or other rule meets the requirements in subsection (B).''

Subsection (B) says 120 days after this OMB will prescribe regulations as required, subject to the following, which shall include the following: A requirement for comparison between the costs of providing the property or service concerned through the agency concerned and the cost of providing such property or service through the private sector.

That is a mammoth requirement for any law or regulation to come out under. The (B) part of that, which is the last part, is a requirement for cost and performance benchmarks relating to the property or service provided relative to comparable services provided by other Government agencies and contractors permitting the oversight of this—and so on—agency concerned with the Office of Management and Budget.

That is a very, very broad-reaching, extremely broad-reaching, amendment.

I would say it is true, it is already covered under the Economy Act of 1982, as I quoted just a moment ago, and the best thing I would advise is we bring this to the attention of Mr. Koskinen, who is going to appear before the committee next week, that we ask his opinion about how broad-gauged this is and why he is not already enforcing the Economy Act of 1982. That is the way to proceed, as I see it, in good Government, not just to automatically pass something that does the same thing that is not being adhered to in earlier legislation.

Mr. President, I suggest we have that as our method of procedure. I am all for efficiency in Government, but I am not just for passing one law and covering up deficiencies in carrying out a law that is already on the books and should be adhered to.

I reserve the remainder of my time. How much time do I have remaining, Mr. President?

The PRESIDING OFFICER. The Senator has 1½ minutes remaining.

Mr. DASCHLE. Mr. President, I think for the interest of Senators, as I understand it, we are about to have a vote. Does the Senator from Wyoming know approximately what length of additional time he will need to complete his remarks?

Mr. THOMAS. I believe I probably have about 2 minutes, and Senator GLENN has 1½ minutes. So I would guess less than 5 minutes.

Mr. DASCHLE. Mr. President, I ask unanimous consent, assuming that is agreeable to the majority leader, to have the vote on the amendment offered by the Senator from Wyoming no later than 6:20.

Mr. THOMAS. It is fine with me.

Mr. GLENN. That will be fine.

Mr. LOTT. Mr. President, if that request was not made, I enter that request now. I ask unanimous consent that we have that vote not later than 6:20, and before if all time is yielded back.

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

The PRESIDING OFFICER. The Senator from Wyoming has 2 minutes 5 seconds remaining.

Mr. THOMAS. Mr. President, I would agree with the Senator if what he is saying were the case, and I think it is not. We have indicated that the statute requires under the Efficiency Act what we are asking here: that there be this effort to communicate in the private sector and measure that cost.

The problem is this one right here. This is March 1996, called the ''Revised Supplemental Handbook, Performance of Commercial Activities, Executive Office of the President, Office of Management and Budget.'' It says:

> The cost comparison requirements of this supplemental handbook will not apply to existing or renewed ISSA's or the consolidation of commercial services.

So it is not just a function of the law not being lived up to but, in fact, is a change that has been put in place by OMB. So that is what we are seeking to do. We are not seeking to change the law. We are not seeking to change the basic operation of this statute, but we are saying that there are changes made by Executive order which remove that requirement that those activities that are being carried on by one agency for another, not the activities for themselves, one agency for another, that the requirement continue to exist as it has in the past, that we see if there are commercial activities available at a lesser, more efficient cost.

This is simply an effort to put back in place the requirement that has been in place for a very long time, that for the activities that are acquired from another agency within Government, that there be an effort to determine if it can be done more cheaply, more efficiently in the private sector.

This is not a new idea. This is an idea that now exists in law but has been taken out of the law by OMB. This would put it back. It is not broad. I hope very much that the Senator from Ohio, and his committee, will take a look at this whole broad thing. But in the meantime, I think we need to return where we were so that private industry can be part of this idea.

We have used it for a very long time. It has to do with being more efficient. It has to do with good Government. It has to do with strengthening the private sector. I certainly urge my colleagues to vote aye.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. GLENN addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. GLENN. Mr. President, I yield back the balance of my time, and assume my colleague does.

Mr. KERREY addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. KERRY. Mr. President, I ask unanimous consent to add Senator MCCONNELL as a cosponsor to amendment No. 5232.

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

The question occurs on agreeing to amendment No. 5224, as modified, offered by the Senator from Wyoming. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Delaware [Mr. ROTH] is necessarily absent.

Mr. FORD. I announce that the Senator from Arkansas [Mr. PRYOR] is absent because of family illness.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 59, nays 39, as follows:

[Rollcall Vote No. 285 Leg.]

YEAS—59

Abraham	Faircloth	Lott
Ashcroft	Feinstein	Lugar
Baucus	Frahm	Mack
Bennett	Frist	McCain
Biden	Gorton	McConnell
Bond	Graham	Murkowski
Bradley	Gramm	Nickles
Breaux	Grams	Pressler
Brown	Grassley	Santorum
Burns	Gregg	Shelby
Campbell	Hatch	Simpson
Chafee	Hatfield	Smith
Coats	Helms	Snowe
Cochran	Hutchison	Specter
Cohen	Inhofe	Stevens
Coverdell	Jeffords	Thomas
Craig	Kassebaum	Thompson
D'Amato	Kempthorne	Thurmond
DeWine	Kohl	Warner
Domenici	Kyl	

NAYS—39

Akaka	Bumpers	Dodd
Bingaman	Byrd	Dorgan
Boxer	Conrad	Exon
Bryan	Daschle	Feingold
Ford	Kerry	Nunn
Glenn	Lautenberg	Pell
Harkin	Leahy	Reid
Heflin	Levin	Robb
Hollings	Lieberman	Rockefeller
Inouye	Mikulski	Sarbanes
Johnston	Moseley-Braun	Simon
Kennedy	Moynihan	Wellstone
Kerrey	Murray	Wyden

NOT VOTING—2

Pryor	Roth

The amendment (No. 5224), as modified, was agreed to.

Mr. SHELBY. Mr. President, I move to reconsider the vote.

Mr. KERREY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. SHELBY. I ask unanimous consent that the pending committee amendments be temporarily laid aside.

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

AMENDMENTS NOS. 5249 THROUGH AMENDMENT NO. 5255, EN BLOC

Mr. SHELBY. Mr. President, I send a group of amendments, en bloc, to the desk and ask for their immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

> The Senator from Alabama [Mr. SHELBY] proposes amendments, en bloc, numbered 5249 through amendment No. 5255.

Mr. SHELBY. Mr. President, I ask unanimous consent that reading of the amendments be dispensed with.

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

The amendments are as follows:

AMENDMENT NO. 5249

(Purpose: To provide for the Advisory Commission on Intergovernmental Affairs to continue operations)

Page 93 after line 19 insert the following new section:

SEC. . Notwithstanding the provision under the heading ''ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS'' under title IV of the Treasury, Postal Service, and General Government Appropriations Act, 1996 (Public Law 104–52; 109 Stat. 480), the Advisory Commission on Intergovernmental Relations may continue in existence during fiscal year 1997 and each fiscal year thereafter.

AMENDMENT NO. 5250

(Purpose: To strike section 404)

On page 60, line 19 strike all through line 21.

AMENDMENT NO. 5251

(Purpose: To provide for an audit by Inspector Generals of administratively uncontrollable overtime practices, to revise guidelines for such practices, and for other purposes)

At the appropriate place in the bill, insert the following new section:

SEC. . (a) No later than 45 days after the date of the enactment of this Act, the Inspector General of each Federal department or agency that uses administratively uncontrollable overtime in the pay of any employee shall—

(1) conduct an audit on the use of administratively uncontrollable overtime by employees of such department or agency, which shall include—

(A) an examination of the policies, extent, costs, and other relevant aspects of the use of administratively uncontrollable overtime at the department or agency; and

(B) a determination of whether the eligibility criteria of the department or agency and payment of administratively uncontrollable overtime comply with Federal statutory and regulatory requirements; and

(2) submit a report of the findings and conclusions of such audit to—

(A) the Office of Personnel Management;

(B) the Governmental Affairs Committee of the Senate; and

(C) the Government Reform and Oversight Committee of the House of Representatives.

(b) No later than 30 days after the submission of the report under subsection (a), the Office of Personnel Management shall issue revised guidelines to all Federal departments and agencies that—

(1) limit the use of administratively uncontrollable overtime to employees meeting the statutory intent of section 5545(c)(2) of title 5, United States Code; and

(2) expressly prohibit the use of administratively uncontrollable overtime for—

(A) customary or routine work duties; and

(B) work duties that are primarily administrative in nature, or occur in noncompelling circumstances.

Mr. MCCAIN. Mr. President, this amendment will address the abuses of Administratively Uncontrolled Overtime—AUO—throughout the Federal Government.

The costs to taxpayers of AUO misuse, estimated at $323 million at a single Federal agency since 1990, are significant. With improper oversight, AUO is likely to be costing the Treasury tens of millions of dollars a year. This amendment will empower the Office of Personnel Management [OPM] to stop these abuses.

First, it directs the Inspector General [IG] of each agency that utilizes AUO to audit its use and cost. The findings of these audits must be reported to the Congress and the Office of Personnel Management within 45 days.

Second, OPM shall review these IG audits, and issue revised guidelines to the respective agencies to limit the use of AUO to its statutory intent. These strengthened guidelines shall prohibit the use of AUO for routine or inappropriate work duties.

The amendment directs OPM to issue these new guidelines, to prevent the ongoing misuse of AUO, within 30 days of receiving the Inspector General audits.

For my colleagues who, like myself, have not been acutely aware of the details and minutiae of Federal overtime policies, let me briefly describe AUO and how it can readily be fixed on behalf of taxpayers in this appropriations bill.

''Administratively Uncontrolled Overtime'' was authorized by Congress to pay overtime to law enforcement officers for vital investigative duties that require them to work irregular and unscheduled hours—pursuing suspects, undercover work, special investigative operations, et cetera. That makes sense. Agency regulations stipulate that AUO should be reserved for work duties that are ''compelling'' and where it would be negligent for officers to stop their enforcement actions.

What has been going on, however, for too many of the 6,300 employees receiving AUO, is that it has turned into a unjustified salary and retirement supplement for the most routine work duties imaginable. And that makes no sense whatsoever for taxpayers.

I'd like to describe the abuses of AUO that occurred in a single Federal agency in my State, as revealed by a selfless Federal employee who stood much to lose by uncovering this waste.

One Immigration and Naturalization Service [INS] officer in Arizona reported that every single officer and supervisor at his facility was receiving the maximum AUO possible, despite the fact that ''In two years . . . not one legitimately qualifying AUO hour has been worked in my department.''

Mr. President, somehow those duties don't sound like ''hot pursuit'' to me. They certainly are necessary, but they do not meet the statutory criteria for AUO. This is not an isolated problem of mere local concern. Both the Inspector General and the INS's top policymakers have recognized this ongoing abuse of AUO.

The INS investigated the use of AUO at a detention facility in Arizona and found that: ''None of the work performed [in Florence] met the criteria for AUO, because the overtime hours could be administratively controlled.''

The Inspector General at the Department of Justice then further investigated this INS facility, and the IG's findings provide the perfect rationale for this amendment. The IG stated that ''[W]e encountered no information [at the INS detention center] to demonstrate efforts to follow up on or implement'' the INS's own recommendations.

The IG recommended that ''The issue of AUO needs to be systematically addressed.'' That is exactly what this amendment would accomplish.

I would like to add that ''Citizens Against Government Waste'' have endorsed this amendment, and I urge my colleagues to support it.

I ask unanimous consent that some accompanying material be printed in the RECORD.

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

[From the Washington Post, Sept. 11, 1996]

INS ACCUSED OF TOLERATING CITIZENSHIP TESTING FRAUD

(By William Branigin)

The Immigration and Naturalization Service came under fire yesterday from congressional Republicans over allegations of fraud in the testing of new citizenship applicants and the payment of millions of dollars in overtime to federal law enforcement officers.

In a hearing of the House Government Reform and Oversight subcommittee on national security Republican members assailed what they described as a ''controversial Clinton administration program,'' called Citizenship USA, that has streamlined naturalization procedures and helped produce record numbers of new citizens this year.

Rep. Mark Edward Souder (R–Ind.) charged that a program in which the INS licenses private organizations to test applicants on U.S. civics and English proficiency has led to ''serious instances of testing fraud in the citizenship process.'' He said the INS ''has done a very poor job of * * * cracking down on testing fraud'' and suggested that the Clinton administration is pushing naturalization as part of a plan to enlist large numbers of new Democratic voters in time for the November elections.

T. Alexander Aleinikoff, executive associate commissioner of the INS for programs, rejected those charges. He said the agency has tightened monitoring of the privatized testing, which began under the previous Republican administration, and defended the Citizenship USA program as a needed response to an upsurge of applicants that threatened to overwhelm the naturalization system.

While Republicans see politics behind the processing of this year's record 1 million-plus citizenship applicants, administration officials regard the subcommittee's investigation itself as politically motivated.

Among the witnesses at yesterday's hearing was Jewell Elghazali, who formerly worked in Dallas for Naturalization Assistance Services, Inc., one of six entities authorized by INS to test immigrants on civics and English as part of the naturalization process.

''There is a lot of fraud going on'' in the programs, she testified. When she alerted a superior in the company to indications of cheating on tests administered by affiliates, she was fired, she said.

Elghazali said that in grading tests during her five months at the firm, she found numerous cases in which the written answers of different applicants were in the same handwriting and responses to multi-choice questions—including wrong answers—were identical. She said that in many cases, applicants who had passed the test could not speak English when they called to inquire about the results. Some Spanish speakers became irate when there was no one in the office who could respond to them in their native language, she said.

Paul W. Roberts, the chief executive officer of Naturalization Assistance Services, told the subcommittee that the firm has ''acted swiftly to revoke all licensees discovered engaging in improprieties.'' He said the for-profit company has shut down 43 of its test sites as a result of its own monitoring and argued that, in any case, passing the standardized test does not automatically guarantee citizenship for an applicant, who must still pass an interview with an INS examiner.

INS Commissioner Doris M. Meissner acknowledged that ''there have been problems'' with the company, which has been warned that it faces suspension unless cleared by an INS review. ''If we need to suspend them, we will,'' she said. But she insisted that ''there is no validity to the notion that people are becoming citizens today who would not have 10 years ago'' because of a lowering of standards. She said citizenship requirements have remained unchanged.

In a separate news conference yesterday, Sen. John McCain (R–Ariz.) called for a congressional investigation into alleged abuses

by the INS and other government agencies of a type of overtime pay. He cited a report by a watchdog group, Citizens Against Government Waste, that the INS has spent $323 million on ''administratively uncontrollable overtime'' since 1990, much of it in violation of regulations.

The overtime pay, amounting to as much as 25 percent of many employees' salaries, has become an ''entitlement program'' that wastes tens of millions of dollars a year, the watchdog group charged.

While the overtime is supposed to compensate law enforcement officers for working long hours on investigations or surveillance, it has been used routinely to pay for mundane duties such as delivering mail, guarding prisoners during meal times and substituting for absent employees, the citizens group charged. Besides the INS, ''administratively uncontrollable overtime'' has been used in the departments of justice, defense, interior and agriculture, the group said.

Meissner said that in principle, the overtime category ''is a very good deal for the taxpayers.'' But she conceded that there has been a tendency to misuse it as ''an ongoing bonus'' and vowed renewed efforts to ensure it is properly managed.

[From the Tribune, Sept. 2, 1996]

INS TO REVIEW OVERTIME POLICIES AFTER CHARGES OF ABUSE

(By the Associated Press)

FLORENCE.—The Immigration and Naturalization Service will review its policies for filing overtime after government and civic groups showed it improperly spent millions of dollars on overtime.

The agency's decision followed criticism by U.S. Sen. John McCain and a citizens watchdog group, which released a report last week estimating that the INS office here spent $60 million on overtime last year alone.

The extra payments allow officers to pad their pensions and up their salaries by as much as 25 percent, according to the Citizens Against Government Waste.

At issue is special pay called Administratively Uncontrollable Overtime (AUO). The fund was created to compensate federal officers for duties that require irregular hours, such as surveillance or undercover work.

Federal rules say such overtime can be used only for ''uncontrollable'' overtime—work that can't be regulated or routinely scheduled by supervisors.

According to government reports, the INS managers in Florence are using the fund for day-to-day duties, such as delivering mail, guarding prisoners during meals, going to court and filling in for absent employees.

Documents obtained by The Arizona Republic show a 1995 INS probe and another in April 1996 by the Justice Department's Office of the Inspector General concluded the practice being abused.

''None of the work performed in Florence met the criteria for AUO because the overtime hours could be administratively controlled,'' the 1995 INS report said.

Virginia Kice, spokeswoman for the INS Western Region, said the agency is aware of the concerns and is conducting a review of the policy.

''We want to be sure that whatever we do is not only appropriate, that it's prudent, it's responsible and it won't have a negative impact on our enforcement operation,'' she said.

According to John Raidt, McCain's legislative director, such abuse is likely rampant in government agencies. The special overtime is available for employees of at least four agencies: the Justice Department, which includes INS; the Defense Department; the Department of Interior; and the Department of Agriculture.

McCain plans to amend a Senate appropriations bill to place tighter restrictions on such overtime and will ask for hearings this fall before the Senate Governmental Affairs Committee, Raidt said.

Critics say INS supervisors have an incentive to keep paying the special overtime. If managers supervise employees who qualify for the extra pay, then the managers also qualify for the money, according to federal guidelines.

Amendment No. 5252

At the appropriate place, insert the following:

SEC. . Notwithstanding section 8116 of title 5, United States Code, and in addition to any payment made under 5 U.S.C. 8101 et seq., beginning in fiscal year 1997 and thereafter, the head of any department or agency is authorized to pay from appropriations made available to the department or agency a death gratuity to the personal representative (as that term is defined by applicable law) of a civilian employee of that department or agency whose death resulted from an injury sustained in the line of duty on or after August 2, 1990: *Provided*, That payments made pursuant to this section, in combination with the payments made pursuant to sections 8133(f) and 8134(a) of such title 5 and section 312 of Public Law 103–332 (108 Stat. 2537), may not exceed a total of $10,000 per employee.

Mr. HOLLINGS. Mr. President, my amendment is quite simple. It increases the reimbursement for funeral and burial costs and specific related expenses to $10,000 for Federal civilian employees who die as result of injuries sustained in the performance of duty. This amendment would apply to the dedicated civil servants who were tragically killed in the line of duty while accompanying Commerce Secretary Ron Brown on his trade mission to Bosnia and Croatia. And it would apply to the survivors of those Federal civilian employees who died during the bombing of the Murrah Building in Oklahoma City.

Under current law, Federal civilian employees who die in the performance of duty receive only a $1,000 reimbursement for funeral and burial costs, and related expenses. This amount was set in 1960, and it has not been adjusted since that time.

This is not the case for military personnel. In 1990, at the beginning of the gulf war, Congress increased death-related benefits for the survivors of the military personnel killed in the line of duty. Military survivors are currently provided slightly more than $10,000 for funeral and burial costs.

My amendment recognizes that civilian employees are no less dedicated and they are all too often called upon to make the ultimate sacrifice in the service of the United States. Further, I should note that this amendment does not require additional appropriations. It provides the discretion to agency heads to pay these increased benefits from existing appropriations.

Mr. President, in short, this amendment provides for equity and updates current law. This is a good amendment that I believe all my colleagues should support.

I urge its adoption.

AMENDMENT NO. 5253

(Purpose: To provide for training of explosive detection canines)

At the appropriate place in the bill insert the following new section:

SEC. . EXPLOSIVES DETECTION CANINE PROGRAM.

(a) AUTHORIZATION.—

(1) The Secretary of the Treasury is authorized to establish scientific certification standards for explosives detection canines, and shall provide, on a reimbursable basis, for the certification of explosives detection canines employed by federal agencies, or other agencies providing explosives detection services at airports in the United States.

(2) The Secretary of the Treasury shall establish an explosives detection canine training program for the training of canines for explosives detection at airports in the United States.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.

AMENDMENT NO. 5254

At the appropriate place in the bill, insert the following:

SEC. . DESIGNATION OF MARK O. HATFIELD UNITED STATES COURTHOUSE.

The United States Courthouse under construction at 1030 Southwest 3d Avenue in Portland, Oregon, shall be known and designated as the ''Mark O. Hatfield United States Courthouse''.

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the courthouse referred to in section 1 shall be deemed to be a reference to the ''Mark O. Hatfield United States Courthouse''.

SEC. 3. EFFECTIVE DATE.

This section shall take effect on January 2, 1997.

AMENDMENT NO. 5255

(Purpose: To provide for the establishment of uniform accounting systems, standards, and reporting systems in the Federal Government, and for other purposes)

At the end of the bill, add the following new title:

TITLE ____—FEDERAL FINANCIAL MANAGEMENT IMPROVEMENT

SEC. ___01. SHORT TITLE.

This title may be cited as the ''Federal Financial Management Improvement Act of 1996''.

SEC. ___02. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds the following:

(1) Much effort has been devoted to strengthening Federal internal accounting controls in the past. Although progress has been made in recent years, Federal accounting standards have not been uniformly implemented in financial management systems for agencies.

(2) Federal financial management continues to be seriously deficient, and Federal financial management and fiscal practices have failed to—

(A) identify costs fully;

(B) reflect the total liabilities of congressional actions; and

(C) accurately report the financial condition of the Federal Government.

(3) Current Federal accounting practices do not accurately report financial results of the Federal Government or the full costs of programs and activities. The continued use of

these practices undermines the Government's ability to provide credible and reliable financial data and encourages already widespread Government waste, and will not assist in achieving a balanced budget.

(4) Waste and inefficiency in the Federal Government undermine the confidence of the American people in the Government and reduce the Federal Government's ability to address vital public needs adequately.

(5) To rebuild the accountability and credibility of the Federal Government, and restore public confidence in the Federal Government, agencies must incorporate accounting standards and reporting objectives established for the Federal Government into their financial management systems so that all the assets and liabilities, revenues, and expenditures or expenses, and the full costs of programs and activities of the Federal Government can be consistently and accurately recorded, monitored, and uniformly reported throughout the Federal Government.

(6) Since its establishment in October 1990, the Federal Accounting Standards Advisory Board (hereinafter referred to as the ''FASAB'') has made substantial progress toward developing and recommending a comprehensive set of accounting concepts and standards for the Federal Government. When the accounting concepts and standards developed by FASAB are incorporated into Federal financial management systems, agencies will be able to provide cost and financial information that will assist the Congress and financial managers to evaluate the cost and performance of Federal programs and activities, and will therefore provide important information that has been lacking, but is needed for improved decisionmaking by financial managers and the Congress.

(7) The development of financial management systems with the capacity to support these standards and concepts will, over the long term, improve Federal financial management.

(b) PURPOSES.—The purposes of this title are to—

(1) provide for consistency of accounting by an agency from one fiscal year to the next, and uniform accounting standards throughout the Federal Government;

(2) require Federal financial management systems to support full disclosure of Federal financial data, including the full costs of Federal programs and activities, to the citizens, the Congress, the President, and agency management, so that programs and activities can be considered based on their full costs and merits;

(3) increase the accountability and credibility of Federal financial management;

(4) improve performance, productivity and efficiency of Federal Government financial management;

(5) establish financial management systems to support controlling the cost of Federal Government;

(6) build upon and complement the Chief Financial Officers Act of 1990 (Public Law 101–576; 104 Stat. 2838), the Government Performance and Results Act of 1993 (Public Law 103–62; 107 Stat. 285), and the Government Management Reform Act of 1994 (Public Law 103–356; 108 Stat. 3410); and

(7) increase the capability of agencies to monitor execution of the budget by more readily permitting reports that compare spending of resources to results of activities.

SEC. ___03. IMPLEMENTATION OF FEDERAL FINANCIAL MANAGEMENT IMPROVEMENTS.

(a) IN GENERAL.—Each agency shall implement and maintain financial management systems that comply with Federal financial management systems requirements, applicable Federal accounting standards, and the United States Government Standard General Ledger at the transaction level.

(b) PRIORITY.—Each agency shall give priority in funding and provide sufficient resources to implement this title.

(c) AUDIT COMPLIANCE FINDING.—

(1) IN GENERAL.—Each audit required by section 3521(e) of title 31, United States Code, shall report whether the agency financial management systems comply with the requirements of subsection (a).

(2) CONTENT OF REPORTS.—When the person performing the audit required by section 3521(e) of title 31, United States Code, reports that the agency financial management systems do not comply with the requirements of subsection (a), the person performing the audit shall include in the report on the audit—

(A) the name and position of any officer or employee responsible for the financial management systems that have been found not to comply with the requirements of subsection (a);

(B) all facts pertaining to the failure to comply with the requirements of subsection (a), including—

(i) the nature and extent of the noncompliance;

(ii) the primary reason or cause of the noncompliance;

(iii) any official responsible for the noncompliance; and

(iv) any relevant comments from any responsible officer or employee; and

(C) a statement with respect to the recommended remedial actions and the timeframes to implement such actions.

(d) COMPLIANCE DETERMINATION.—

(1) IN GENERAL.—No later than the date described under paragraph (2), the Director, acting through the Controller of the Office of Federal Financial Management, shall determine whether the financial management systems of an agency comply with the requirements of subsection (a). Such determination shall be based on—

(A) a review of the report on the applicable agency-wide audited financial statement;

(B) the agency comments on such report; and

(C) any other information the Director considers relevant and appropriate.

(2) DATE OF DETERMINATION.—The determination under paragraph (1) shall be made no later than 90 days after the earlier of—

(A) the date of the receipt of an agency-wide audited financial statement; or

(B) the last day of the fiscal year following the year covered by such statement.

(e) COMPLIANCE IMPLEMENTATION.—

(1) IN GENERAL.—If the Director determines that the financial management systems of an agency do not comply with the requirements of subsection (a), the head of the agency, in consultation with the Director, shall establish a remediation plan that shall include the resources, remedies, and intermediate target dates necessary to bring the agency's financial management systems into compliance.

(2) TIME PERIOD FOR COMPLIANCE.—A remediation plan shall bring the agency's financial management systems into compliance no later than 2 years after the date on which the Director makes a determination under paragraph (1), unless the agency, with concurrence of the Director—

(A) determines that the agency's financial management systems are so deficient as to preclude compliance with the requirements of subsection (a) within 2 years;

(B) specifies the most feasible date for bringing the agency's financial management systems into compliance with the requirements of subsection (a); and

(C) designates an official of the agency who shall be responsible for bringing the agency's financial management systems into compliance with the requirements of subsection (a) by the date specified under subparagraph (B).

(3) TRANSFER OF FUNDS FOR CERTAIN IMPROVEMENTS.—For an agency that has established a remediation plan under paragraph (2), the head of the agency, to the extent provided in an appropriation and with the concurrence of the Director, may transfer not to exceed 2 percent of available agency appropriations to be merged with and to be available for the same period of time as the appropriation or fund to which transferred, for priority financial management system improvements. Such authority shall be used only for priority financial management system improvements as identified by the head of the agency, with the concurrence of the Director, and in no case for an item for which Congress has denied funds. The head of the agency shall notify Congress 30 days before such a transfer is made pursuant to such authority.

(4) REPORT IF NONCOMPLIANCE WITHIN TIME PERIOD.—If an agency fails to bring its financial management systems into compliance within the time period specified under paragraph (2), the Director shall submit a report of such failure to the Committees on Governmental Affairs and Appropriations of the Senate and the Committees on Government Reform and Oversight and Appropriations of the House of Representatives. The report shall include—

(A) the name and position of any officer or employee responsible for the financial management systems that have been found not to comply with the requirements of subsection (a);

(B) the facts pertaining to the failure to comply with the requirements of subsection (a), including the nature and extent of the noncompliance, the primary reason or cause for the failure to comply, and any extenuating circumstances;

(C) a statement of the remedial actions needed; and

(D) a statement of any administrative action to be taken with respect to any responsible officer or employee.

(f) PERSONAL RESPONSIBILITY.—Any financial officer or program manager who knowingly and willfully commits, permits, or authorizes material deviation from the requirements of subsection (a) may be subject to administrative disciplinary action, suspension from duty, or removal from office.

SEC. ___04. APPLICATION TO CONGRESS AND THE JUDICIAL BRANCH.

(a) IN GENERAL.—The Federal financial management requirements of this title may be adopted by—

(1) the Senate by resolution as an exercise of the rulemaking power of the Senate;

(2) the House of Representatives by resolution as an exercise of the rulemaking power of the House of Representatives; or

(3) the Judicial Conference of the United States by regulation for the judicial branch.

(b) STUDY AND REPORT.—No later than October 1, 1997—

(1) the Secretary of the Senate and the Clerk of the House of Representatives shall jointly conduct a study and submit a report to Congress on how the offices and committees of the Senate and the House of Representatives, and all offices and agencies of the legislative branch may achieve compliance with financial management and accounting standards in a manner comparable to the requirements of this title; and

(2) the Chief Justice of the United States shall conduct a study and submit a report to Congress on how the judiciary may achieve compliance with financial management and accounting standards in a manner comparable to the requirements of this title.

SEC. ___05. REPORTING REQUIREMENTS.

(a) REPORTS BY DIRECTOR.—No later than March 31 of each year, the Director shall submit a report to the Congress regarding implementation of this title. The Director may include the report in the financial management status report and the 5-year financial management plan submitted under section 3512(a)(1) of title 31, United States Code.

(b) REPORTS BY THE COMPTROLLER GENERAL.—No later than October 1, 1997, and October 1, of each year thereafter, the Comptroller General of the United States shall report to the appropriate committees of the Congress concerning—

(1) compliance with the requirements of section ___03(a) of this title, including whether the financial statements of the Federal Government have been prepared in accordance with applicable accounting standards; and

(2) the adequacy of uniform accounting standards for the Federal Government.

SEC. ___06. CONFORMING AMENDMENTS.

(a) AUDITS BY AGENCIES.—Section 3521(f)(1) of title 31, United States Code, is amended in the first sentence by inserting ''and the Controller of the Office of Federal Financial Management'' before the period.

(b) FINANCIAL MANAGEMENT STATUS REPORT.—Section 3512(a)(2) of title 31, United States Code, is amended by—

(1) in subparagraph (D) by striking ''and'' after the semicolon;

(2) by redesignating subparagraph (E) as subparagraph (F); and

(3) by inserting after subparagraph (D) the following:

''(E) a listing of agencies whose financial management systems do not comply substantially with the requirements of the Federal Financial Management Improvement Act of 1996, the period of time that such agencies have not been in compliance, and a summary statement of the efforts underway to remedy the noncompliance; and''.

SEC. ___07. DEFINITIONS.

For purposes of this title:

(1) AGENCY.—The term ''agency'' means a department or agency of the United States Government as defined in section 901(b) of title 31, United States Code.

(2) DIRECTOR.—The term ''Director'' means the Director of the Office of Management and Budget.

(3) FEDERAL ACCOUNTING STANDARDS.—The term ''Federal accounting standards'' means applicable accounting principles, standards, and requirements consistent with section 902(a)(3)(A) of title 31, United States Code, and includes concept statements with respect to the objectives of Federal financial reporting.

(4) FINANCIAL MANAGEMENT SYSTEMS.—The term ''financial management systems'' includes the financial systems and the financial portions of mixed systems necessary to support financial management, including automated and manual processes, procedures, controls, data, hardware, software, and support personnel dedicated to the operation and maintenance of system functions.

(5) FINANCIAL SYSTEM.—The term ''financial system'' includes an information system, comprised of one or more applications, that is used for—

(A) collecting, processing, maintaining, transmitting, or reporting data about financial events;

(B) supporting financial planning or budgeting activities;

(C) accumulating and reporting costs information; or

(D) supporting the preparation of financial statements.

(6) MIXED SYSTEM.—The term ''mixed system'' means an information system that supports both financial and nonfinancial functions of the Federal Government or components thereof.

SEC. ___08. EFFECTIVE DATE.

This title shall take effect on October 1, 1996.

Mr. BROWN. Mr. President, today I offer an amendment that has already passed the Senate as a free-standing bill called the Federal Financial Management Improvement Act of 1996 (S. 1130). This measure brings urgent reforms to Federal financial management and restores accountability to the Government. The Senate should include this measure in the Treasury, Postal Service, and General Government appropriations bill because it is our best hope for enacting these important reforms into law this year. There is very little time left in this session and it is of the utmost importance that Congress send this measure to the President before we leave town. However, I strongly encourage efforts currently underway in the House Government Reform and Oversight Committee to pass S. 1130. Chairman CLINGER as well as Government Management Subcommittee Chairman HORN are working hard on the bill and I hope they are able to get it through the House of Representatives during these busy weeks.

Mr. President, I'll make just a brief statement on financial management reform. Several years ago, in an effort to identify excess spending in the Federal budget, I inquired as to overhead costs in Federal programs. I was advised that the Federal accounting system makes it impossible to identify overhead expenses for most Federal operations. The Federal Government, it turned out, has over 200 separate primary accounting systems, making it impossible to compare something as basic as overhead costs.

Worse, many of these systems are shamefully inadequate even on their own terms. The Internal Revenue Service offers another disturbing example of poor financial management and its consequences. The General Accounting Office testified before the Governmental Affairs Committee on June 6, 1996, that despite years of criticism, ''fundamental, persistent problems remain uncorrected'' at the IRS. For example, the IRS cannot substantiate the amounts reported for specific types of taxes collected, such as Social Security taxes, income taxes, and excise taxes. The IRS cannot even verify a significant portion of its own nonpayroll operating expenses, which total $3 billion. One can hardly resist observing that this is the agency that demands precision from every taxpayer in America.

The IRS is just a small part of a Government so massive and complex that it controls and directs cash resources of almost $2 trillion per year, issuing 900 million checks and maintaining a payroll and benefits system for over 5 million Government employees. Clearly it is imperative that the Government use a uniform and widely accepted set of accounting standards across the hundreds of agencies and departments that make up this Government.

Enactment of this measure into law would be a great step toward putting Federal financial management in order. It requires that all Federal agencies implement and maintain uniform accounting standards. The result will be more accurate and reliable information for program managers and leaders in Congress, meaning better decisions will be made: tax dollars will be put to better use, and a measure of confidence in the Government will be restored. While this is not the kind of legislation that makes headlines, it is of great significance. Its passage would be a major accomplishment for the 104th Congress.

Mr. SHELBY. Mr. President, the amendments I have offered are as follows: One is for Senator STEVENS, to provide that the ACIR utilize nonappropriated funds for continued operations; for Senator INHOFE, to strike section 404 of the bill; for Senator MCCAIN, regarding a study of the administratively uncontrollable overtime; for Senator HOLLINGS, to provide certain death benefits to civilian Government employees; for myself and Senator KERREY, regarding explosive detection training for canines; for myself, naming the new courthouse in Portland, OR; for Senator BROWN, regarding Federal financial management improvement.

Mr. KERREY. Mr. President, we have reviewed the amendments on this side, and we support all of them.

Mr. SHELBY. Mr. President, I ask unanimous consent that these amendments be considered and agreed to, en bloc, and that any accompanying statements be placed at the appropriate place in the RECORD.

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

The amendments (No. 5249 through 5255), en bloc, were agreed to.

Mr. SHELBY. Mr. President, I move to reconsider the vote by which the amendments were agreed to.

Mr. KERREY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. SHELBY. I suggest the absence of a quorum.

Mr. REID. Mr. President, will the chairman withhold?

Mr. SHELBY. I am glad to withhold.

Mr. REID. I ask unanimous consent that the pending amendment be set aside so that I may be allowed to offer an amendment.

The PRESIDING OFFICER. Is there objection?

Mr. SHELBY. Reserving the right to object, I would like to check with Senator KASSEBAUM on her amendment, and also Senator WYDEN, who has been conferring with her, before we do that.

Mr. WYDEN. Did the Senator from Alabama ask unanimous consent to lay aside——

Mr. SHELBY. The Senator from Nevada asked unanimous consent. What

we would like to know is, where are the Senator and Senator KASSEBAUM on the amendment?

Mr. WYDEN. Senator KASSEBAUM and I are continuing to discuss these matters. I think it is fair to say, in fact, that Senator KASSEBAUM indicated that she thought it was appropriate to go on with further business, and we will continue to discuss the matters with respect to the gag rule a bit more.

Mr. SHELBY. I have no objection to temporarily setting aside the Kassebaum amendment.

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

Mr. REID. Mr. President, I will shortly send the amendment to the desk on my behalf and that of Senator LEVIN and that of Senator BIDEN.

Mr. President, we have heard a lot in this Chamber about the issue of reimbursing the former employee of the White House Travel Office, Billy Dale, for attorney fees. There have been hours of talk in this Chamber about that issue. Unfortunately, Mr. President, much of what we have heard has been based on emotion and not on facts. In fact, there is very little, if any, factual support for this very costly expenditure of a $0.5 million—$500,000—to reimburse attorneys on the Billy Dale case.

The American people, in effect, are being asked to pay for the attorney fees of a person who was lawfully indicted and legitimately prosecuted. Let me repeat: The American people are being asked to pay the attorney fees for a person who was indicted lawfully—no question about that—and who was legitimately prosecuted.

Proponents of this taxpayer expenditure contend that Mr. Dale was wrongfully prosecuted. Yet, neither Dale nor these high-powered lawyers who represented him—and still represent him—ever raised any of this in any proceeding or in any case that was before the courts. They didn't move to dismiss his indictment on the ground of prosecutorial misconduct.

In fact, when they filed a motion for acquittal, the court, having heard the evidence, denied the motion for acquittal. Why? Because it was the judge's reasonable assessment that sufficient evidence existed for a reasonable person to find Billy Dale guilty of the charges.

Mr. Dale and his attorneys also failed to allege wrongdoing against those who investigated him, and there is no evidence to support that there was any wrongdoing by the people who did the investigation. The watchdog of Congress, the General Accounting Office, reviewed the case and determined that the FBI and the IRS action taken during the period surrounding the removal of the Travel Office employees were reasonable and consistent with the Agencies' normal procedures.

Mr. President, a review by the Office of Professional Responsibility in the Justice Department concluded that there was no wrongdoing on the part of any FBI employees regarding the Travel Office matter.

Mr. President, I want to say that I believe that the chairman of this subcommittee and the ranking member, the junior Senators from Alabama and Nebraska, have brought a good bill before this body. There are scores of amendments that have been filed. I would bet that a number of them are not germane. Certainly this one is, and I felt there is language in this bill that relates to this issue where this bill would pay, in effect, Mr. Dale's attorneys $500,000, and that this should be something that should be discussed. This should be an issue that is debated, and I do that under the recognition that I think the two managers of this legislation have done a good job.

But let me repeat regarding these attorney fees that there is no evidence to support that Mr. Dale—as Mr. Dale and his attorneys did raise—there is nothing to support that there was any wrongdoing in this investigation. I repeat: The General Accounting Office reviewed this matter and determined that the FBI and the IRS did nothing wrong regarding the procedures in the Travel Office. They were reasonable and consistent with the Agencies' normal procedures and practices.

A review by the Office of Professional Responsibility in the Justice Department concluded that there was no wrongdoing on part of any FBI employee regarding the Travel Office matter, and it is clear that all the people who investigated this case were there long before this administration took office. Notwithstanding this, the American taxpayers have been asked to pay almost $0.5 million to Dale's attorneys. This is clearly a private relief bill.

If this had been in the form of an amendment, our rules would have allowed us to raise a point of order, and this procedure could have been knocked out. But in that the committee and the subcommittee had, in effect, amended the House bill, we have nothing to raise a point of order on. As a result of that, this is the only alternative we have.

We are being asked as a body to grant this relief absent any hearing or committee report on this subject. The matter should be subject to the ordinary procedures for private relief bills provided under Senate rule XIV.

That is why I am offering this amendment, along with Senators LEVIN and BIDEN, that comports with the procedures set out in rule XIV. The amendment that will shortly be offered refers the reimbursement of Mr. Dale's attorney fees to the Federal Court of Claims.

Mr. President, the Federal Court of Claims is a body in which the judges are appointed for a period of 15 years. This is a body that has been in existence for over 100 years. It has decided exactly the type of issue presented in the Billy Dale matter on hundreds and hundreds of cases. This court has special jurisdiction for cases involving claims against the Federal Government.

As I have indicated, it is made up of approximately 15 judges. These are referred to as article 1 judges because they serve for a time certain, and these people are appointed by the President of the United States for these 15-year terms. They handle primarily contractual claims, fifth amendment claims, and certain Indian claims.

Over the past century, Congress has referred thousands of cases to the court. The court reviews these cases under specific statutory authority and procedures set out in claims cases under the United States. Initially, the case is referred to a chief judge who designates another judge. In fact, they usually have three people that hear these cases, and these three judges become the reviewing body.

The bottom line is this panel has the most expertise that we have in America to handle this kind of case.

I think this is something we would want to do to avoid the bitter political acrimony that has taken place on this floor in the past regarding this matter. It would seem that we should refer it to the body separate and apart from the policy involved. If in fact this amendment carries, it is up to the Court of Claims to determine the extent to which Mr. Dale has a legal and equitable remedy in this matter and whether or not the taxpayers should pay him money.

Now, I think justice and equity weighs against Mr. Dale, but let the Court of Claims determine that. This amendment is the least we can do for the American taxpayer. Half a million dollars may be pocket change for some and maybe even Mr. Dale's attorneys, but it is not to the American public. It is a lot of money to the American public.

Facts do not support such a controversial expenditure on behalf of someone who has been indicted for embezzlement and offered to plead guilty.

Here is what we are being asked to do. We are being asked to pay $500,000 in attorney's fees for someone who admitted his guilt, basically, according to his attorney. Here is what his attorneys wrote to the U.S. attorney:

> Mr. Dale will enter a plea of guilty to a single count of 18 U.S.C. section 654. He will acknowledge that he intentionally placed Travel Office funds in his personal checking account without authorization.

Here is what he, Mr. President, has agreed to plead guilty to.

This is the statute.

> Whoever, being an officer or employee of the United States or of any department or agency thereof, embezzles or wrongly converts to his own use the money or property of another which comes into his possession or under his control in the execution of such office or employment, or under color or claim of authority as such officer or employee, shall be fined under this title . . . the value of the money and property thus embezzled . . . or imprisoned not more than 10 years, or both.

It seems somewhat unique to me that someone who, in writing, agreed to

plead guilty, could be sentenced to up to 10 years in prison, fined the amount of money he stole, is now coming before the Congress of the United States and saying pay my attorney's fees. Why? Because he was acquitted.

Mr. President, I am a trial lawyer. Before I came here, I tried a lot of cases. I did criminal work. I believe in our system of justice. The vast majority of times trial by jury works out right. The right decision is not always reached, but most of the time it is. The vast majority of the time the right decision is reached. A lot of times the jury does not arrive at the right result, but they arrive at a result. Sometimes they do not, as we know it appears to a lot of us in the O.J. Simpson case or the Menendez brothers. The juries do not always do the right thing, but most of the time they do. This is an instance clearly when they did not do the right thing.

Now, the facts do not support such a controversial expenditure on behalf of someone who is indicted for embezzlement and offered to plead guilty to a felony.

This issue is not about the firing of the Travel Office employees in 1993. Most agree that these terminations were not handled appropriately. But everyone also agrees that their dismissals were legal, that the administration, the White House, had a right to do that within the prerogatives of the law and the office held by the President.

I repeat, the people who were relieved of duty there were relieved of duty legally. Whether it was done in an appropriate manner without hurting a lot of feelings and kind of roughshod, that is something we can all talk about. We would all agree it could have been handled better. But nothing was done illegally. This amendment that will be offered is about putting an end to the partisan election year games that are now occurring in Congress. Half a million dollars is too high a price to ask of taxpayers, the people of the State of Nevada, Ohio, Washington, Kansas, Pennsylvania, Utah, and the rest of the country. This is about putting an end to partisan, election-year games now occurring in Congress. I repeat, half a million dollars is too high a price to ask the taxpayers to bear for such an obvious election-year program.

Those who seek to embarrass this administration should not ask the taxpayers to finance their fun and games. If we decide as a body to reimburse Mr. Dale as called for in this legislation now before the Senate, we will be setting a dangerous precedent. This will be the first time in the history of this Congress that we will have paid the attorney's fees of a lawfully indicted and prosecuted individual. There is precedent to pay the legal fees for the Travel Office employees who were not indicted, and we should do that. No problem with that. There is nothing in precedent that would prevent the Government from rectifying a wrong. Travel Office employees who had to pay legal fees should be reimbursed. The independent law governs this area. That is the best we have. We can talk about it.

Payment of attorney's fees is permitted if the following two conditions are satisfied. No. 1, the subject in the investigation would not have been investigated but for the independent counsel, and No. 2, the person was not indicted. Not indicted. Clearly, Mr. Dale would follow under that basis. He was indicted and he was lawfully indicted. Under independent counsel, the way the statute reads, there could even be prosecutorial misconduct when the indictment takes place and he still would not be reimbursed for his attorney's fees. In this situation, there is no question that he was indicted properly, legally. Mr. Dale's attorneys never raised prosecutorial misconduct, never.

As we all know, Mr. Dale was indicted. The independent counsel law is explicit about the requirement that attorney's fees can be recovered only if the individual was not subject to indictment. There are no exceptions to this rule. If we are going to establish new precedent, there at least should be a foundation for doing so, and the indictment of a person legally is certainly strange grounds to set a precedent for this Congress to start reimbursing people after the jury returns an acquittal verdict.

There have been no Congressional hearings. There is no foundation in the instant case. There is no committee report laying out the reasons for breaking long-established precedent.

Without a lot of politics involved, we have offered the appropriate response to Mr. Dale's problem. If in fact he has been wronged, which I do not think he has, but if he has, why is this not referred to the appropriate tribunal, which would be the Court of Claims? We have done it hundreds and thousands of times, as I have indicated earlier. Legislation to pay attorney's fees for specific individuals is a form of private relief. Senate rule 14.9 governs the Senate consideration of private relief legislation.

What we have in this instance is that private relief legislation has been folded over into this Treasury-Postal Service bill. If this amendment were not raised, the American public would be paying half a million dollars. They may pay half a million dollars anyway if this bill passes and this amendment does not carry, but they will know that a man who agreed to plead guilty to a felony, a man who was properly indicted—there was never a question of prosecutorial misconduct ever raised during the trial proceedings—is going to be paid $500,000 in attorney's fees. I think that sets a very, very dangerous precedent. In short, it requires, this amendment I will offer, the adoption of a resolution referring such matter, as I have indicated, to the Court of Claims. That is why we have the Court of Claims.

What would the American public think if anytime someone is indicted and acquitted that we pay their attorney's fees? Or do we pick and choose what attorney's fees we pay if there is an acquittal? We do that legislatively? If there is a problem it should be referred to the Court of Claims. There is statutory procedure in place for dealing with this. Under 28 U.S.C. 2509, the Federal claims court determines whether the private relief sought from U.S. taxpayers is appropriate.

We have heard the plaintive cries of how they were terminated improperly. Remember, the President had the ability and the legal right to fire the people for no reason. I have acknowledged that they could have been terminated in a different manner. Procedurally, the claims court assumes jurisdiction of these cases upon referral of either House of Congress. Upon review, the court must determine whether there is a legal or equitable claim to taxpayer money or whether such payment would be simply a gratuity. Our amendment follows precedent and is in compliance with the statute.

To many, Billy Dale is the epitome of the modern-day victim. The media—remember where he worked. He worked in the White House Travel Office. Millions of dollars went through his hands every year. And his job was to make happy the people who travel from the White House, but especially the press, especially the press. He had to make them happy. That was his main function. He served them well. He made them happy, and they have done a great job of portraying him as victim. In Nevada, Seattle, Cleveland, or anyplace else, it would not be that way. It would not be that way. In any city in Nevada, if this were explained to them, he would not be a victim. He would be somebody who should be prosecuted, as was determined by the Justice Department.

In addition to his high-priced attorney, Mr. Dale has received public support from many notable heavyweights in the media. He took good care of them. He runs in powerful circles and has no shortage of influential supporters. Today he has become the poster boy for every—I should not say for every—for many fundraisers. At many Republican fundraisers around the country, Billy Dale is the poster boy. As it was reported in August in the media, candidate Dole had offered him a job in his Presidential campaign. He is still the subject of a plethora of sympathetic pieces in the news by his old friends in the media.

This has all culminated in today's effort to attempt to embarrass the President by appropriating $500,000 very quietly. It is in the bill. There would be no vote on it. It was just slipped through here quietly and the American taxpayers then would be confronted with people saying, "Yeah, we told you so. The President has agreed to pay this money because he was so wrong." He is not so wrong. The Congress of the

United States should not be involved in this. It should be referred to the Court of Claims.

The real facts according to his indictment have yet to be aired, but we are going to talk about those. If such an appropriation took place in this bill, under the Federal election laws it should be deemed as an in-kind contribution to campaigns around the country, Republican in nature.

When it comes to Billy Dale, many speak of conspiracies. But it is the conspiracy of silence that I would like to speak about a little bit today. The silence over the activities that led to Mr. Dale's indictment is deafening. All we seem to hear about is poor Billy Dale. However there is reason why the man was indicted, and let us not forget that Mr. Dale agreed—I repeat—to plead guilty to embezzlement. Mr. Dale is, in my opinion, an admitted crook. He is today asking the American taxpayer to pick up his legal bill.

He has every right to do this, but let us do it in the Court of Claims. He has waived, in my opinion, every right of confidentiality, with his campaign by his attorneys and him to be reimbursed for attorney's fees, regarding the facts supporting his prosecution. If the American public is going to pay $500,000 to a high-priced Washington law firm, they should know the whole story. So let us talk a little bit about the whole story. Let us talk about some of the things that he testified to at his trial.

He testified to a number of things. He admitted putting 55 checks for Travel Office funds totaling some $54,000 in his personal bank account. Mr. President, if we want to get into more detailed facts, and we can do that, we will find that he was very careful in the checks that he put in his personal bank account. He basically put in checks that would be very, very difficult to trace. What checks did he put in his personal bank account? Checks that came from foreign news outlets, from Mexico, from places in Europe, from Asia. He was very careful. He did not put into his personal bank account checks from CBS, ABC, and other American media outlets. He took into his personal checking account checks that could not be traced.

He also had a number of explanations why he did this. It was more convenient—that is a real laugher—more convenient. The bank that held the checks legally for the Travel Office was about a block from the White House where he worked. His personal bank was miles away, out in Maryland someplace.

He admitted during the trial, admitted cashing refund checks to the Travel Office received from telephone companies for trips where the press had been overcharged.

He admitted that by not putting the refund checks in the Travel Office bank account he was breaching an obligation he had to apply any surplus in that account toward the very next trip. He even got into—he was storing this money up so he could cover foreign trips during October and November. It is a little difficult in an election year. They just do not happen.

He admitted that there were times in 1992 that he cashed Travel Office checks but did not write them down in his petty cash log, and that anyone looking for them in the log would not know that he had cashed the checks.

He admitted during the trial to putting checks that were supposed to go into the Travel Office surplus fund account at the Riggs Bank into his own personal account. This is what I have talked about. One was a block away, the other was at his home.

He admitted during the trial that he did not even tell the individual who worked with him in the Travel Office for 30 years, his chief assistant, Gary Wright, of this practice of putting these checks into his own account and not the office account. No one knew except him. It was a secret. Why? Because he was stealing the money. He admitted to cashing one check for $5,000, writing down only $2,000 for that check in the petty cash log. When he was first contacted by the investigators about that he was silent. They talked to him again: Silent. Suddenly, after having run to his credit union and borrowing enough money to cover this, he brought the money back and said, "I had it in my desk drawer." Of course he did not have it in his desk drawer.

Dale admitted that he overcharged for some of the flights and undercharged for others, instead of just charging exactly what the trip cost. Then he offered some incomprehensible explanation to the investigators, why that was beneficial.

There are many other things that he admitted during the trial, but the fact of the matter is we are being asked here to reimburse attorney's fees of $500,000 for Billy Dale, his attorneys, so he can carry on this campaign of harassment that he has been engaged in in the past 6 months or year.

We can look at a prosecution memo. Before cases are brought in Federal court—you have heard the expression, "What are they trying to do, make a Federal case out of it?" That, Mr. President, comes with very good reason, because in the federal system, and the Presiding Officer knows, having been an Attorney General, as most people, that Federal cases are developed under very detailed circumstances. Almost every time a case is filed that results in indictment, a prosecution memo is prepared. A prosecution memo was prepared in this case.

I will read just a little bit from the prosecution memo:

> The FBI has investigated this matter and strongly supports these charges.

That is in the first paragraph. I repeat:

> The FBI has investigated this matter and strongly supports these charges.

What are these charges?

> We propose to charge Billy Ray Dale, the former director of the White House Telegraph and Travel Office, with converting to his own use approximately $54,000 in checks and $14,000 in cash received by him in connection with his official duties.

The only reason the $14,000 figure isn't higher is because records were destroyed. This is the petty cash fund for only 1 year. It certainly would have been much higher if those records had been available.

There are a number of other things in this prosecution memo that I think call out for comment when Congress is being asked to respond to half a million dollars:

No legitimate explanation for these deposits. It talks about the missing cash in addition to the missing checks. There were numerous checks cashed, unreconciled estimated bills and large fluctuations in the bank balances. This is from the prosecution memo.

> A decision was made to inform the Travel Office employees that the examination was being conducted as part of the National Performance Review. RECORDs were in a shambles.

Thirteen checks made out to cash for which there was little or no documentation established how the cash was spent. There was a questionable transaction involving a $5,000 check to cash. Further, he had no explanation of the discrepancy—this is the $5,000 check—but that he later found the money in his desk. The report found a lack of financial controls and accounting systems. We know that.

Most importantly, the report found discrepancies with the petty cash fund, which he controlled.

Also, they indicate that this certainly was no kind of a witch hunt. They also, Mr. President, came to the conclusion:

> We found no evidence of illegal conduct by any other member of the Travel Office. The media checks selected by Dale for deposit into his account were not from mainstream press organizations, but rather English, Japanese, German and Hispanic media. Dale's selection of these checks is significant. The refund checks invariably were generated by the vendors on their own. They arrived unexpectedly, and their absence would not be missed. Similarly, the checks from these esoteric news services were less likely to be scrutinized by these services when returned by their bank, and those organizations would be less likely to understand the meaning of Dale's name on the deposits and not the Travel Office.

Because he wrote on them "For deposit only to Billy R. Dale."

> We could find no legitimate reason for these checks to be deposited in Dale's personal bank account. It certainly was not easier—

Still quoting from this memo:

> It certainly was not easier for Dale to have taken checks across to home, to Maryland, rather than walk across the street. Indeed, on four occasions, Travel Office checks were deposited by Dale in his account on the same day deposits were made to the Travel Office account at Riggs.

There is certainly no evidence at all that Dale ever used any of these moneys from his personal account to pay Travel Office expenses. Then why

would he put it in there? He would put it in there so he could use the money.

Then, of course, they do a minimal accounting to find out what would happen if he spent this money and where he spent it. They did that and arrived at the conclusion he had to take the money and use it on his own: homes purchased, children getting money. These are not my words. This is from the Justice Department:

The evidence indicates that Dale stole the missing $14,000 in cash. He cannot claim credibly that he used relatively large amounts of unused checks to pay trip expenses during the period. He offered no explanation for the misrecording.

Dale was asked three times about the $5,000 check, and he finally said on the third occasion:

He now had an explanation for the missing money. Dale went to his desk and produced an envelope containing $2,800 in cash, enough to make up the difference, which he told the investigator this corresponded to a portion of the missing money. Dale told the investigator that he had set the $3,000 aside for an upcoming trip to Indonesia because he sometimes had to pay kickbacks when he traveled to that part of the world.

Dale's explanation, of course, is not credible. There is no reason why this cash would not have been used for another trip. So his explanation is without any foundation whatsoever.

His explanation about needing this money in Indonesia is inconsistent with the travel records for that period. The $5,000 check was cashed in October of 1992. He made no international trips from January 10, 1992, until he left the office in May of 1993. The question is asked, why wasn't he convicted? We all ask that question.

I am not going to impugn the ability of the prosecutors, but it must have been a busy week. I don't think they were very well prepared for this case. Acquittals come, as we all know. Sometimes they shouldn't come. So, in finality, the prosecution memo says:

We propose to charge Dale with two counts of conversion under United States Code 654.

So, Mr. President, there is more here to this than we have heard in the past. For example, we have referred to his plea agreement. November 30, 1994, I am reading directly from his letter:

Mr. Dale will enter a plea of guilty to a single count of 18 U.S. Code 654. He will acknowledge he intentionally placed Travel Office funds in his personal checking account without authorization.

It goes on to explain what he would like in the way of a sentence.

I believe the facts simply do not support a half-million-dollar payment to Dale's attorneys. It is clear that the Justice Department had probable cause to indict and prosecute Billy Dale. It is important to keep in mind who it was who made this determination—career service attorneys at the Department of Justice. The White House had nothing to do with this. Likely—not likely; no question about it—that people doing this were holdovers from the Bush and Reagan administrations, professional prosecutors.

This is a private relief claim at best and should be referred to the Court of Claims. It has been turned into a political matter and should be removed from the political arena. Claims court is the proper forum for deciding whether Mr. Dale's attorneys are entitled to receive taxpayer compensation; otherwise, we are breaking well-established precedent for purely political purposes. In doing so, we would create a tremendously dangerous precedent in this body.

We cannot make a mistake about it. This reimbursement is for Presidential politics. Mr. Dale runs in high circles now and has become the poster boy for every Republican—I should not say ''every''—for many political fundraisers held by the Republicans. He was offered a job by Presidential candidate Dole, as reported in the press. And there are a few $1,000 fundraisers at which he appears.

Any appropriations should be considered an in-kind contribution to the Republican Presidential campaign. The record we have laid out today evidences the need to remove this matter from this body and to take it to the Court of Claims where appropriate consideration can be given. At a minimum, don't the taxpayers at least deserve this? What kind of a precedent would we set by including, in an appropriations bill, a payment for somebody's attorney's fees who was rightfully indicted and was acquitted by a jury, which happens in our system?

Mr. Dale's attorneys down on K Street, or wherever they are, I do not think will go hungry awaiting this decision. It is the right thing to do. The amendment that is going to be offered says that he should be reimbursed if the Court of Claims determines Dale has a legal or equitable claim.

AMENDMENT NO. 5256

(Purpose: To refer the White House travel office matter to the Court of Federal Claims)

Mr. REID. Mr. President, I send an amendment to the desk on my behalf and that of Senator LEVIN and Senator BIDEN.

The PRESIDING OFFICER (Mr. GORTON). The clerk will report.

The bill clerk read as follows:

The Senator from Nevada [Mr. REID], for himself, Mr. LEVIN and Mr. BIDEN, proposes an amendment numbered 5256.

Mr. REID. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 91, line 3, strike ''The'' and insert ''Except as provided in subsection (f), the''.

On page 92, between lines 21 and 22, add the following:

(f)(1) Any former employee of the White House Travel Office whose employment in that office was terminated on May 19, 1993, and who was subject to criminal indictment for conduct in connection with such employment, shall be reimbursed for attorney fees and costs under this section but only if the claim for such attorney fees and costs, which shall be referred to the chief judge of the United States Court of Federal Claims, is determined by the chief judge to be a legal or equitable claim, as provided in paragraph (2).

(2) The chief judge shall—

(A) proceed according to the provisions of sections 1492 and 2509 of title 28, United States Code; and

(B) report back to the Senate, at the earliest practicable date, providing—

(i) such findings of fact and conclusions that are sufficient to inform the Congress of the nature, extent, and character of the claim for compensation referred to in this section as a legal or equitable claim against the United States or a gratuity; and

(ii) the amount, if any, legally or equitably due from the United States to any individual referred to in this section.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Does the amendment relate to the amendment of the Senator from Nevada?

Mr. HATCH. It does.

The PRESIDING OFFICER. The clerk will report.

Mr. REID. Mr. President, could I make a parliamentary inquiry?

The PRESIDING OFFICER. State your parliamentary inquiry.

Mr. REID. Is there a second-degree amendment pending to the amendment offered by the Senators from Michigan and Nevada?

The PRESIDING OFFICER. The Chair is attempting to make that determination.

Mr. REID. Mr. President, I was only curious. Something was sent to the desk.

The PRESIDING OFFICER. The Senator from Nevada has in fact sent, not one, but two amendments to the desk at the same time. It would take unanimous consent to consider the two amendments as a single amendment.

Mr. HATCH. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

AMENDMENT NO. 5256, AS MODIFIED

Mr. REID. Mr. President, I ask unanimous consent that the amendment offered by the Senators from Nevada, Michigan and Delaware be modified to strike lines 1 and 2 of the amendment.

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

The amendment (No. 5256), as modified, is as follows:

On page 92, between lines 21 and 22, add the following:

(f)(1) Any former employee of the White House Travel Office whose employment in that office was terminated on May 19, 1993, and who was subject to criminal indictment for conduct in connection with such employment, shall be reimbursed for attorney fees and costs under this section but only if the

claim for such attorney fees and costs, which shall be referred to the chief judge of the United States Court of Federal Claims, is determined by the chief judge to be a legal or equitable claim, as provided in paragraph (2).

(2) The chief judge shall—

(A) proceed according to the provisions of sections 1492 and 2509 of title 28, United States Code; and

(B) report back to the Senate, at the earliest practicable date, providing—

(i) such findings of fact and conclusions that are sufficient to inform the Congress of the nature, extent, and character of the claim for compensation referred to in this section as a legal or equitable claim against the United States or a gratuity; and

(ii) the amount, if any, legally or equitably due from the United States to any individual referred to in this section.

AMENDMENT NO. 5257 TO AMENDMENT NO. 5256

(Purpose: To reimburse the victims of the Travel Office firing and investigation)

The PRESIDING OFFICER. The clerk will report the second-degree amendment.

The assistant legislative clerk read as follows:

The Senator from Utah [Mr. HATCH] proposes an amendment numbered 5257.

Mr. HATCH. I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

Strike all after the first word and insert the following:

(2) VERIFICATION REQUIRED.—The Secretary shall pay an individual in full under paragraph (1) upon submission by the individual of documentation verifying the attorney fees and costs.

(3) NO INFERENCE OF LIABILITY.—Liability of the United States shall not be inferred from enactment of or payment under this subsection.

(b) LIMITATION ON FILING OF CLAIMS.—The Secretary of the Treasury shall not pay any claim filed under this section that is filed later than 120 days after the date of the enactment of this Act.

(c) LIMITATION.—Payments under subsection (a) shall not include attorney fees or costs incurred with respect to any Congressional hearing or investigation into the termination of employment of the former employees of the White House Travel Office.

(d) REDUCTION.—The amount paid pursuant to this section to an individual for attorney fees and costs described in subsection (a) shall be reduced by any amount received before the date of the enactment of this Act, without obligation for repayment by the individual, for payment of such attorney fees and costs (including any amount received from the funds appropriated for the individual in the matter relating to the ''Office of the General Counsel'' under the heading ''Office of the Secretary'' in title I of the Department of Transportation and Related Agencies Appropriations Act, 1994).

(e) PAYMENT IN FULL SETTLEMENT OF CLAIMS AGAINST THE UNITED STATES.—Payment under this section, when accepted by an individual described in subsection (a), shall be in full satisfaction of all claims of, or on behalf of, the individual against the United States that arose out of the termination of the White House Travel Office employment of that individual on May 19, 1993.

SEC. 529. None of the funds made available in this Act may be used by the Executive Office of the President to request from the Federal Bureau of Investigation any official background investigation report on any individual, except when it is made known to the Federal official having authority to obligate or expend such funds that—

(1) such individual has given his or her express written consent for such request not more than 6 months prior to the date of such request and during the same presidential administration; or

(2) such request is required due to extraordinary circumstances involving national security.

SEC. 528. (a) REIMBURSEMENT OF CERTAIN ATTORNEY FEES AND COSTS.—

(1) IN GENERAL.—The Secretary of the Treasury shall pay from amounts appropriated in title I of this Act under the heading, ''Departmental Offices, Salaries and Expenses'', up to $499,999 to reimburse former employees of the White House Travel Office whose employment in that Office was terminated on May 19, 1993, for any attorney fees and costs they incurred with respect to that termination.

Mr. SHELBY. Mr. President, it is moving on in the day and Senator KERREY and I have talked to a number of Members about any votes requested tonight. We will try to stack them tomorrow. He has no disagreement with that.

I yield to him for any comments.

Mr. KERREY. We have not had a discussion with the leadership about this. We have lots of people who would like to bring amendments down.

Mr. SHELBY. Subject to the approval of both leaders?

Mr. KERREY. We will try to get in touch with the leadership and see if we can work that out.

Mr. SHELBY. I yield the floor.

THE PRESIDING OFFICER. The Presiding Officer, in his capacity as the Senator from Washington, suggests the absence of a quorum.

The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

AMENDMENT NO. 5208, AS MODIFIED

Mr. SHELBY. I ask unanimous consent that amendment 5208, which was previously agreed to, be modified with the changes I now send to the desk, and, further, that the modifications be considered agreed to.

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

The amendment (No. 5208), as modified, is as follows:

At the end of the committee amendment, insert the following:

''No adjustment for:

''(1) members of Congress under section 601(a) of the Legislative Reorganization Act of 1946, and

''(2) members of the President's Cabinet (as defined in 5 U.S.C. section 5312) under section 5318 of Title 5, U.S. Code,

shall be considered to have taken effect in fiscal year 1997.''.

Mr. SHELBY. I yield the floor.

AMENDMENT NO. 5256, AS MODIFIED

Mr. LEVIN. Mr. President, the appropriations bill before the Senate includes a provision to pay attorney's fees for the employees of the White House Travel Office who were dismissed from their jobs in 1993. This provision is similar to Senate bill 1561 sponsored by Senator HATCH earlier this year and to House bill 2937.

The provision would direct the Secretary of the Treasury to pay up to $500,000 of taxpayers' money to six former Travel Office employees; $50,000 of that amount would go to five of the employees who were already partially reimbursed by last year's appropriations bill. The rest, or about $450,000, would go to reimburse former Travel Office Director Billy Dale's attorney fees.

Unlike the other Travel Office employees, Billy Dale was subject to a Federal indictment and prosecution for embezzlement and conversion. It is that indictment and prosecution for embezzlement and conversion which is the source of the attorney fees. I want to repeat that because that is the critical issue that is before the Senate: It is the attorney fees that related to the FBI indictment and prosecution for embezzlement and conversion that is the source of the attorney fees that is in this bill. The provision, though, in this bill, lumps together both the unindicted and the indicted Travel Office employees. That is the mistake which should be remedied.

We know that the White House staff acted inappropriately when they summarily fired all the Travel Office employees in May 1993. The White House acknowledged that in their July 1993 management review when it said—this is the White House speaking—that the White House erred in not treating the Travel Office employees with more sensitivity. We also know that the White House staff erred in that conduct with respect to the FBI. They took actions which they should not have, which had the appearance of trying to influence the FBI. The White House acknowledged that in their 1993 management review when that review said, ''The White House erred in not being sufficiently vigilant in guarding against even the appearance of pressure on the FBI.''

The White House, by its own acknowledgment, was wrong when it allowed people with personal financial interest in the Travel Office to be involved in the work of the office and in evaluating the office. The White House management report acknowledged this, as well, when it said, ''The White House erred in permitting people with personal interests in the outcome to be involved in evaluating the Travel Office.''

Now, it is because of those errors, those facts, on the part of the White House relative to the firing of those employees that the Congress agreed to pay the attorney fees of former Travel Office employees who were fired, who should not have been fired, who were improperly filed. We appropriated $150,000 in last year's appropriation for

the Department of Transportation, and we will complete that course of action with the remaining $50,000 with this appropriations bill.

I do not have any argument with that. Quite the opposite. I think it was the right thing to do. We ought to pay those attorney fees relative to the firing of those employees.

However, $450,000 of the money in this bill would go for something far different than paying attorney fees for employees who everybody has already acknowledged should not have been fire—$450,000 of the taxpayers' money in this bill will go to pay the attorney fees that Billy Dale incurred in his defense against a criminal indictment. That $450,000 was not incurred because Dale was wrongly fired. It was incurred because a proper FBI investigation and a proper Department of Justice review found substantial evidence of embezzlement and conversion on the part of Billy Dale.

It was not the wrongful firing which relates to these $450,000 in bills for attorneys. It is because Billy Dale was indicted. He was indicted following a proper FBI investigation. He was indicted following a proper Department of Justice review which found substantial evidence of embezzlement and conversion on his part.

Now, as best as I can determine, if we pass this legislation as currently drafted, it will be the first time in our history that we have passed legislation to pay attorney fees incurred by someone who has been, from all appearances, lawfully indicted.

Now, maybe there is another case; maybe there is another instance where someone who was—I emphasize this—lawfully indicted following a proper investigation by the FBI, and following a proper review by the Department of Justice. Maybe there is another instance, but we can't find it.

So what is in this bill is precedent-setting. There is not an adequate foundation to set this precedent. The only law that allows for the payment of attorney fees incurred because of a criminal investigation is the independent counsel law. That law explicitly prohibits individuals from recovering their attorney fees if they have been indicted.

Now, while the attorney fees at issue here don't involve the independent counsel law, it is the only standard that we have on the books where the situation is comparable, so that it is reasonable that it would serve as our guide. Ten years ago, when we reauthorized the independent counsel law for the first time, we concluded that the independent counsel statute may create inequitable situations, where persons who would otherwise not be involved in a criminal investigation could incur sizable attorney fees solely because of the independent counsel law.

We decided, therefore, to allow for the reimbursement of attorney fees for persons subject to investigation under the independent counsel law if they met a two-part test. First, they had to show that they would not have incurred the attorney fees but for the independent counsel statute, and, second, they were not eligible if they were indicted.

No one at the time, or since, has ever mentioned, much less considered, the possibility of paying attorney fees for an indicted individual. Now, when Congress took the first step last year of paying the attorney fees of the fired White House Travel Office employees by including $150,000 in the Department of Transportation appropriations bill, that legislation explicitly limited payment of that money to reimburse attorney fees only of White House Travel Office employees who ''were not the subject of the FBI investigation.'' That is why it was passed so easily by a voice vote. It coincided with the independent counsel standard. But the legislation before us would violate that standard. If we are going to do that, we better have some criteria for the precedent that we are setting.

The reason that we have made an indictment the threshold beyond which there is to be no reimbursement for attorney fees is because an indictment requires a determination that there be probable cause that the person subject to the indictment committed a crime. The grand jury is comprised of average citizens who make a determination as to whether or not there is probable cause to go forward with an indictment and a trial. It is a system that we use thousands of times a year, if not a day, across this country. In order to be indicted, a prosecutor must present evidence to a grand jury to show probable cause that a crime was committed and that a specific person is the one who committed the crime.

Whether or not the indicted person is eventually acquitted does not take away from the fact that there was probable cause to believe that the person had committed a crime. Acquittal doesn't mean that the indictment never should have been brought. It means that the judge or jury did not believe there was proof beyond a reasonable doubt that the indicted individual was guilty. We have almost a thousand acquittals a year in this country in the Federal system alone, and I suspect a reasonable number of those involve relatively short jury deliberations, like the Billy Dale case. There is nothing unusual or suspect about such acquittals. That is the way the criminal process works.

But what if an indictment had been improperly obtained? If that is the case, that the indictment was tainted or obtained improperly, the defendant can seek to have it thrown out before or during trial. Rule 12 of the Federal Rules of Criminal Procedure provides for a defendant to make a number of pretrial motions, ''including any defense or objection to the prosecution, based on defects in the institution of the prosecution''—there I am quoting rule 12—''or based on defects in the indictment,'' and again I am quoting rule 12. Those motions are made in hundreds—probably thousands—of cases.

Outside of rule 12, courts may also recognize challenges to a prosecution or an indictment based on lack of due process. The court may dismiss an indictment as an exercise of its inherent supervisory authority to protect a defendant's due process.

These are long-recognized defenses to improper criminal prosecutions. Those defenses, though, are supposed to be raised in the judicial process and, in most cases, prior to trial. Rule 12 explicitly requires that any claim of defect in the institution of the prosecution, or the indictment, must be made prior to trial. Extensive case law supports the requirement with the result that any claim not raised prior to trial is deemed waived. So there is a clear and appropriate way for a defendant in a criminal case to challenge the fairness or the propriety of a prosecution.

As far as I can tell, Billy Dale did not raise any of these challenges during the course of his prosecution. The court docket for Billy Dale's case does not show any motion to dismiss because of alleged defects in the indictment, or because of alleged Government misconduct, or because of a claim of lack of due process; nor does the docket show that Billy Dale made any of those claims during the course of his trial. If he had these claims, he should have raised them at the trial. Had he been convicted and appealed the conviction, he would have been precluded from raising them on appeal, because if the claims haven't been made before trial, then the defendant will be treated as having waived those defenses.

Now, in support of this legislation, Senator HATCH has claimed that Dale's indictment and prosecution were a ''grave miscarriage of justice,'' and that Dale was ''wrongfully prosecuted.'' Well, if Billy Dale had those claims at the time of his trial, he had the opportunity and the legal obligation to raise them at trial. If he did not raise those claims there, then unless there are compelling reasons, we should be particularly careful in considering them here under this very rare and unusual process of private relief legislation.

If the answer is that Billy Dale has one of these claims, but did not raise it at the appropriate time, then we need an explanation as to why he did not raise it in the appropriate form at the appropriate time. There may be a legitimate reason, and we should hear that. But, so far, there is nothing on the record to that effect.

Without a compelling reason to justify Dale's failure to make his case about a wrongful prosecution while at trial, we would be overthrowing long-standing and critically important precedent in criminal procedure and in our handling of private relief bills were we to act at this time. We would be saying to hundreds, perhaps thousands,

of defendants, that although they failed to make a timely motion challenging the legitimacy of the private prosecution brought against them, they can still come to Congress and we will consider paying their legal fees, even though they would be forbidden from challenging the legitimacy of the prosecution were the case on appeal from a conviction.

But let's assume there was a legitimate reason for Dale to have failed to raise this claim of wrongful prosecution at the trial. If that were true, then we could be in a position to consider the substance of the claim. But, surely, before we pay his attorney fees out of taxpayer money, we ought to determine that the prosecution was improper.

As the record now stands, I don't see evidence to support such a claim. We don't have a Senate hearing record, or even a Senate committee report on this legislation, because there aren't any. The only record we have upon which we are supposed to judge this matter is the House committee report that accompanies the bill.

Mr. President, I have read the House committee report. I do not find anything in that report to justify a finding that either the FBI investigation or Department of Justice prosecution of Billy Dale was improper. What I have found is this: White House staff did a poor job in responding to evidence of financial mismanagement in the White House Travel Office, did a poor job of handling long-time White House Travel Office employees, and the White House summarily fired all the Travel Office employees before all the facts were known. The White House itself acknowledged these errors back in 1993. There is nothing new about those findings. In July 1993, the error was acknowledged by the White House in the firing of Travel Office employees.

What else have we found? It was found before, but the White House conveyed a heightened sense of urgency about the allegations involving the Travel Office to the FBI and coordinated a press release with the FBI which created the appearance of pressuring the FBI. The White House acknowledged that error back in July 1993.

Those White House errors do not mean that the investigation by the FBI or the prosecution by the Department of Justice were improper. That is the heart of the matter. Errors in the firing, yes. They have been acknowledged for years. But the prosecution of Billy Dale, the investigation by the FBI, the prosecution by the Department of Justice—were they defective? There is not even an allegation of that. That is what these legal fees relate to. They do not relate to the firing. We are paying those legal fees. They relate to the defense of a criminal indictment which was properly brought following a proper FBI investigation, following a proper Department of Justice prosecution that no one has said was improper.

There is nothing in the House report, which is the only report we have, that says that the FBI investigation was tainted, or wrong, or defective, or improper. There is nothing in that House report which says that the Department of Justice prosecution was tainted, or defective, or improper.

That is what these legal fees relate to. We are paying the legal fees for the firing. And we ought to. They were done inappropriately. That has been acknowledged for years. We paid $150,000 last year in the appropriations bill. And this appropriations bill appropriates an additional $50,000, and we ought to pay it. It is the $450,000 for the defense against an indictment which was properly brought which is the issue here and which would set a precedent. We have never paid the legal fees of someone who was properly and legally indicted. If we open up that door, we would have thousands of folks out there who are acquitted, and many of whom are acquitted in just as short a time, who will have an equal claim.

That is the issue. Whether or not we ought to have the Court of Claims say that there was something inappropriate here before this money is paid, that is what this amendment does. It does not say strike the money. It says refer this to the Court of Claims to see if there is an equitable claim. And if there is, pay it.

Mr. President, it was not the White House which carried out the criminal investigation which led to the indictment of Billy Dale. It was the FBI. Has anyone said that investigation by the FBI was inappropriate, or tainted? Not that I have heard; not in the House committee report, which is the only report we have on it. The White House did not review the evidence obtained by the FBI and determine that it should be presented to a grand jury for possible indictment. That was the Department of Justice. It was not the White House that reviewed the FBI investigation and said, ''Hey, we are going to indict this person.'' The Department of Justice made that decision. I have not heard anyone say that the Department of Justice concluded that it should seek an indictment of Billy Dale which was tainted, or defective, or inappropriate, or improper. That is not in the House report, the only report we have.

The White House did not hear the evidence and determine that there was probable cause to believe that Billy Dale had embezzled $54,000 from the White House Travel Office. That was the grand jury, and the White House did not try this case and determine that there was sufficient evidence to sustain a conviction. That was the judge. The judge did that. The judge heard this evidence and decided that there was sufficient evidence to sustain a conviction of Billy Dale and let this case go to the jury and denied a motion for directed verdict.

There is no evidence, there is no allegation, that the Federal Bureau of Investigation pursued its investigation in an improper manner. There is no evidence that the decision to prosecute a decision made by career attorneys at the Justice Department was improper. That allegation has not been made. It is not in the House report. I do not think it would be sustainable if someone made it. There is no evidence that the indictment by the grand jury was improper. There is no evidence that the criminal trial conducted by a well-respected judge, whom Dale himself lauded as being fair, was in any way improper. In fact, Dale was asked at a hearing on the House side before the Committee on Government Reform and Oversight in January of this year by Congressman KANJORSKI whether Dale was ''suggesting in any way that either those attorneys in the Justice Department, the people in the grand jury, the judge that tried the case, or the people that made up the jury were in some way compromised?'' That was the exact question. Billy Dale responded, ''Absolutely not.''

On May 28, 1993, the FBI released a report of its internal review of its contacts with the White House on the Travel Office. The FBI Director concluded that ''The FBI acted correctly''. He said that ''FBI personnel declined to offer guidance, restricted their interest to the parameters of a possible criminal investigation and did not commit to conducting a criminal investigation until after consultation with appropriate personnel within the FBI and Department of Justice.''

The GAO looked into the handling of the White House Travel Office. In its report in May of 1994 it stated, ''FBI interactions with Associate Counsel Kennedy and White House press officials occurred in a mode of urgency but GAO found no evidence that the FBI took inappropriate action as a result of those conditions.''

The GAO went on to say that it found that the FBI actions ''during the period surrounding the removal of the Travel Office employees were reasonable and consistent with the agency's normal procedures.''

The Office of Professional Responsibility in the Department of Justice also reviewed the conduct of the FBI in this matter, and in its report, dated March 18, 1994, said the following: ''Based on our inquiry, we have concluded that the FBI acted properly throughout its dealings with the White House regarding the Travel Office matter.''

Providing more detail, the report went on to say, ''As noted, we found no wrongdoing on the part of any FBI employees regarding the Travel Office matter, but the various FBI agents who had direct contact with White House Associate William Kennedy have different recollections of their conversations with him. All agreed that they did not interpret Kennedy's statements as threats or attempts by him to pressure them to respond to the factual situation in an inappropriate manner, or in any way inconsistent with normal procedures.''

I am continuing to quote. ''And the record makes clear that the agents who had direct contact at the White House, as well as their superiors at FBI headquarters, followed normal procedures in responding to the Travel Office matter.''

The Office of Professional Responsibility goes on to say that ''ill-advised and erroneous'' action by White House staff during this time—''ill-advised and erroneous'' action by White House staff during this time; everyone concedes that. But the Office of Professional Responsibility said, ''—created the appearance that the FBI was being used by the White House for political purposes'' but concluded that the problem was one of appearance and not substance with regard to the FBI.

The House committee report lays out a summary of the facts in this case, a summary with which I do not have much dispute, but in reaching its conclusion it, like the legislation, makes no distinction between former Travel Office employees who were not indicted and Billy Dale who was indicted. That is the distinction which this appropriations bill does not make either. It is the critical distinction because there has been concession, there has been acknowledgement, there has been awareness for years that errors were made by the White House in the firing of those people and the attorney's fees have been paid, and they have been paid except for $50,000, in this bill, properly.

But there is another case, there is another situation in here. That is the proper legal indictment of Billy Dale following a proper investigation by the FBI, following a proper review of that investigation by the Department of Justice, following a proper indictment by the Department of Justice from the grand jury, following a proper jury trial.

The issue with respect to this legislation then is not the payment—and I am going to repeat this because we are going to hear a lot about the improper firing, which is conceded, has been acknowledged for years, and I have no doubt that we will hear later tonight, perhaps tomorrow, in great detail about the improper firing of these employees of the Travel Office, and that is not the issue. That has been acknowledged at least for 2 years. Those attorney fees, again, should be and have been paid for the most part and will be paid, the balance, in this legislation. I think it is supported universally that they were inappropriate firings and that the legal fees should be paid. I do not know anyone who disagrees with that one.

The issue here is the payment of attorney fees to somebody who was properly and legally indicted for the first time that I can find in our history. No standards in the committee report, no committee report from the Senate, just a private bill to pay attorney fees of people legally indicted, following a proper investigation by the FBI, not tainted, not alleged to be tainted, following proper prosecution, not tainted, not alleged to be tainted, either at trial or in the House report or as far as I know here. What was improper was the firing. But the indictment was proper, too, and I am going to spend a few minutes as to what that evidence was that led the FBI and the Department of Justice to seek an indictment and to prosecute Billy Dale.

This indictment was based on a finding of probable cause that a named individual committed a crime. Billy Dale was in charge of the White House Travel Office. He served as its head for 11 years, had been in the office for 32 years. There were six other employees in the Travel Office who worked under Billy Dale. None of these employees, including Billy Dale, was a member of the civil service. All the employees, including Billy Dale, served at the pleasure of the President and could be fired at will.

The job of the White House Travel Office is to accommodate the White House press corps by arranging for their transportation and housing while on travel to cover the President. Although the Federal employees in the Travel Office are paid for at taxpayer expense, the payment for the travel, the airplane, taxi, train, hotel costs are paid for by the respective news organizations. The moneys for travel are funneled through the White House Travel Office, so while the White House Travel Office employees will make the arrangements for the airplane charter and handle the reservations for hotel accommodations and meals, the money to pay for those items will be collected by the Federal employees at the Travel Office from the news organizations and then paid to the respective companies that have incurred the costs.

To cover the costs in advance and keep the operation running, the Federal employees at the Travel Office oversee and maintain an account at the Riggs Bank through which payments and reimbursements are made.

So let's say that the White House press corps needs 20 rooms at a hotel in Paris. The White House Travel Office books the 20 rooms, pays for them when required either upfront or after the trip, and then it bills each respective news organization for its share of the expenses.

That is how it is done. Why Federal employees should be the ones responsible for getting the press corps around the world and accommodated may not be 100 percent clear, but that is the way it works. There is no problem with that. That is the way it works.

White House Travel Office employees would often go on these trips to manage the travel and to cover incidental costs such as baggage handlers and local transportation. The employees who would go on a trip would take a fair amount of cash with them to pay for the necessary expenses. They get this money, this cash they took along with them from a petty cash account that they maintained at the Travel Office. They were supposed to work as follows: The petty cash account would be replenished by cashing checks at the Riggs Bank where the main account for the office was maintained, recording the number of the check and the amount cashed in a petty cash log. The Travel Office employees were supposed to use either the Riggs Bank account, which was several blocks away, that is all, from the White House, or the petty cash account, which was in the Travel Office, to cover the expenses while traveling with the White House press corps.

In May 1993, the White House counsel's office requested Peat Marwick, a private accounting firm, to conduct a review of the financial records of the Travel Office. That review found, according to the summary, ''significant accounting system weaknesses, including missing or inadequate documentation for disbursements, a lack of financial control consciousness, no formal financial reporting process, no reconciliations of financial information, no documented system of checks and balances on transactions and accounting decisions within the office, no general ledger of cash receipts, disbursement journals, no copies of bills on file.''

Now, in particular, Peat Marwick noted about ''eight discrepancies between the amounts written to cash on the Riggs National Bank account and the recording of these amounts into the petty cash fund.''

''Each of the eight checks was made out to cash and signed by the director of the press travel office and endorsed by the same individual. Those discrepancies totaled,'' according to Peat Marwick, ''$23,000.''

As a result of that audit, the FBI began an investigation, and during the investigation the FBI learned the following. Sometime around 1988, Billy Dale started depositing checks that belonged to the Travel Office into his own personal account in Maryland that he had with his wife. Dale deposited, the FBI found, 55 checks over 3 years totaling $54,000. He did not reveal that he was depositing those checks into his account in Maryland instead of in the office account across the street to anybody. He did not acknowledge or notify Peat Marwick he was doing it. He did not tell the FBI he was doing it. He did not tell his coworkers at the White House he was doing it—nobody. The FBI uncovered the deposits in his account because it had subpoenaed the records from that account.

The FBI also learned that on numerous occasions Dale cashed Travel Office checks for petty cash at the Riggs Bank but failed to record that fact on the petty cash ledger, which he was supposed to do. There was an unaccounted-for discrepancy of $13,000. During the Peat Marwick audit, Dale never mentioned these facts and irregularities to auditors. He never told anyone else about that money. We are here talking about petty cash. He did not

tell his fellow employees in the White House Travel Office, anybody at the FBI once the FBI investigation started. And this is from the trial transcript now of Billy Dale.

Question: And you never told your deputy that you had taken checks out of the Travel Office and put them into your personal account, did you?

Answer: That is correct.

Question: And you never told any of the people in the Travel Office that you had taken checks out and put them in your personal account?

Answer: That is true.

Over the course of 3 years, 1988 to 1991, Billy Dale took checks intended for the White House Travel Office, which were checks mostly from telephone companies to reimburse the Travel Office for prior payments in excess of needs. He took those checks, which were supposed to go to the Travel Office, deposited them in his personal bank account in Clinton, MD. He never told anyone, again, people he had worked with for decades, about taking those checks.

When he was asked about which checks he took, this is what he admitted at trial. How did he select the checks which he was not going to deposit in the Riggs account across the street? It was the office account. The ones he took to Clinton, MD, and deposited and merged with his own private funds with his wife in his own personal bank accounts, how did he pick them? Which ones? There were thousands of checks which come in:

Question: And you took a little more care in selecting these checks, didn't you?

Answer: I don't know what you mean.

Question: Well, you took the telephone refund checks, because there was no record in the office that these telephone refund checks were issued and coming back to the office; right?

Answer: That is right.

Question: And so no one would know that the money was missing, right?

Answer: That is right.

Question: And, so that no one would learn of what were you doing, right?

Answer: That is right.

Now, again, the FBI was not told by Billy Dale that he deposited $54,000 in checks in his personal account. He did not tell Peat Marwick during their review. Despite the negative report by Peat Marwick about financial mismanagement, he did not disclose it then. He never told anyone about that—3 years, deposits checks in his personal account. It was only after they were subpoenaed by the FBI that they discovered the deposits of these Travel Office checks by Mr. Dale.

So, now the FBI learns, because of its subpoenaed bank records, of these deposits of $54,000 in Travel Office money in his personal account. That is not a small amount of money and it is not a minor act by a Federal employee. It is a willful, intentional deposit of Travel Office funds in an employee's private bank account. He did not keep the funds separate. He merged them in his own private account, all mixed together.

There is not one of us in this Chamber who would tolerate that conduct by any of our employees. No one in private industry would allow that. He did it surreptitiously, he did it secretly, and even when he knew that the FBI was investigating the financial management of the Travel Office, he kept it a secret.

That is about as good probable cause as a lot of prosecutors are going to get in a lot of cases. At trial, Billy Dale testified and presented an explanation for his conduct. He said that he was under pressure by news organizations to keep the size of the office account at Riggs, the so-called surplus in that account, at a reasonable amount. But he said he needed more money than that in order to pay the bills, and he testified he needed "convenience and flexibility" in getting cash for trips.

Apparently walking two blocks to the Riggs Bank and cashing a telephone refund check to take on a trip was not sufficient convenience. So here is what he testified he did. He testified he kept a personal hoard of cash at his home, not his home bank in Clinton, but his house. He kept $20,000, he said, at his house. This came, he said, from the proceeds of a small business that he sold, from rent that he received from his children, and from the proceeds of his brother's estate. He testified that he would take a telephone refund check for the Travel Office, which might be in an amount of, say, $800 or $1,000, he would go home, take that amount from his cash reserve. He would then bring that amount from his cash reserve into the Travel Office. He would then take the refund check which was intended for the Travel Office and deposit it in his personal account at the Clinton, MD, bank. That is his explanation as to how he deposited $54,000 of Travel Office money in his personal checking account, for flexibility and convenience.

He could have cashed these checks two blocks away at the Riggs Bank, a bank that Travel Office employees used all the time, but he did not do that. He deposited them in his personal bank account, merged with his personal money for "flexibility and convenience." He never made a copy of the checks, never told anyone in the Travel Office about them. No other Travel Office employee who had the same financial needs and responsibilities on these trips—no other Travel Office employee deposited Travel Office checks in their personal checking accounts. All the other Travel Office employees used either cash from the Riggs account or cash from the petty cash account in the office. All the others—not Billy Dale.

Now, those facts surely were reasonable grounds upon which to proceed. No one has argued—again, I emphasize, no one has argued that the decision to prosecute was not reasonable here or that the FBI investigation was not reasonable here. The judge found that that was adequate to sustain a conviction.

Supporters of Billy Dale say because he was acquitted in just a few hours, somehow or other that taints the prosecution. Are we going to get into the business of awarding attorney's fees to an indicted, properly indicted but acquitted, individual based on the amount of time that it took to acquit? O.J. Simpson's trial lasted over a year and the jury deliberated less than a day. Should the State of California pay O.J. Simpson's attorney's fees because of the brevity of the deliberation? I do not think we want to walk down that road. I do not think we want to base our judgment on the validity of a criminal prosecution on the length of a jury's deliberation.

Moreover, Billy Dale offered to plead guilty to a felony. This is a situation where we are asked to decide whether a person who offered to plead guilty to a felony should receive $450,000 in taxpayers' money to pay for his defense when his offer to plead guilty was rejected by the Government as not being adequate and he went to trial. The offer is to a felony called "wrongful conversion" to one's own use and property under his control. He offered to plead guilty to a felony called "wrongful conversion." He did it on November 30, 1994. This information has been made public in many newspapers. Several points in this written plea offer are important to note.

First, it is clearly and unequivocally an offer to plead guilty to one count. It is one count of violation of the U.S. Code, section 654, which states as follows:

Whoever, being an officer or employee of the United States, or of any department or agency thereof, embezzles or wrongfully converts to his own use the money or property of another which comes into his possession or under his control in the execution of such office or employment, or under color or claim of authority as such officer or employee, shall be fined under this title not more than the value of the money or property thus embezzled or converted . . . .

And so forth.

Billy Dale says he did not agree to plead guilty to embezzlement, and that is correct. He did agree to plead guilty to wrongful conversion, which is part of the same statute as the embezzlement language, the same section, section 655 of 18 U.S. Code, which makes it a felony to either embezzle or wrongfully convert. Both crimes carry the same maximum penalties of up to 10 years in prison.

Billy Dale not only offered to pay a fine of not to exceed $69,000, he also offered to accept up to 4 months imprisonment, one-half of which was to be served in jail.

Why was Billy Dale offering to plead guilty? As he has said in various testimonies since he offered to plead guilty: Because he wanted to spare his family the grief and expense of a trial. But he also offered to plead guilty because he did not want to face the risk, a risk that he must have thought he had a reasonable likelihood of incurring, the risk of a longer jail term. His attorney wrote in the plea offer and the consequences of the acceptance of the

plea—this is the attorney for Billy Dale that said in the plea offer:

The Government will be able to publicize the conviction in a case that has received considerable notoriety. The defendant will in all likelihood receive some jail time and will suffer a substantial financial detriment, all of which is important to the Government. Moreover, Mr. Dale will be forced to live with the stigma of having acted criminally in his handling of the Travel Office money.

On the other hand—

His attorney writes in the plea offer:

Mr. Dale will avoid the expensive trial and the risk of a substantially longer jail term.

So he offered to plead guilty, pay both a sizable fine and actually serve some time in jail.

One other fact relative to the trial. At the end of the Government's case, Billy Dale made a motion for acquittal, and that was denied. This motion allows the judge to assess the presentation of the Government's evidence and decide if, on its face, it is insufficient to present to a jury.

Rule XXIX of the Federal rules of criminal procedure provide that:

The court, on motion of a defendant or on its own motion, shall order the entry of judgment of acquittal of one or more offenses charged in the indictment after the evidence on either side is closed if the evidence is insufficient to sustain a conviction of such offense or offenses.

So here was another check on the legitimacy of the prosecution. Even though the grand jury was appropriately convened and the indictment was without defect and the prosecution did not violate due process and was not inappropriately selective, the defendant can ask the judge to consider whether the evidence of guilt, as presented by the Government, is sufficient to sustain a conviction by the jury. If the Government did not present sufficient evidence to convict, then the case does not go to the jury. The judge must acquit based on the motion of the defendant over its own motion.

Billy Dale made this motion, and it was denied by the judge. So, in the opinion of the judge, after the Government had presented all of its evidence, there was sufficient evidence to sustain a conviction.

I think a reasonable person looking at this record would find it reasonable to conclude that the criminal prosecution of Billy Dale was legitimate. Three separate reports on the firing of the White House Travel Office employees concluded there was no wrongdoing by the FBI, which was the lead investigative agency into alleged criminal conduct in the Travel Office. The GAO concluded in May 1994 that ''the FBI and the IRS actions during the period surrounding the removal of the Travel Office employees were reasonable and consistent with the agency's normal procedures.''

The FBI's internal review in May 1993 determined ''the FBI acted correctly:''

FBI personnel declined to offer guidance, restricted their interest to the parameters of a possible criminal investigation and did not commit to conducting a criminal investigation until after consultation with appropriate personnel within the FBI and the Department of Justice.

Third, the review by the Office of Professional Responsibility and the Department of Justice concluded:

We found no wrongdoing on the part of any FBI employees regarding the Travel Office matter.

The Senate has not had 1 hour of hearings on this bill. We don't have a committee report upon which we can assess the facts, not only of the criminal prosecution but of the estimate for the attorney's fees.

The House committee report upon which we are supposed to rely does not even mention, does not discuss the nature of the indictment or the facts surrounding the indictment or the basis for it. Those facts are ignored. What it focuses on and what I am sure will be focused on here tonight is the inappropriateness of the firings, which the White House and others concede.

The attorney's fees relating to the firing are, concededly, appropriately paid. We should pay them. We paid three-quarters of them. We should pay the balance in this bill. Those are not at issue. It is not the firings that is at issue here. It is whether or not the criminal indictment and the prosecution was defective and inappropriate. That is the issue, because that is what these $450,000 of attorney's fees relate to.

The basis upon which we should consider paying Mr. Dale's attorney's fees would be if there had been information uncovered that the Federal Government acted unfairly in indicting Mr. Dale. If there was sufficient evidence of that, then we should be given that information. That is the only basis upon which we ought to be considering spending almost a half million dollars of the taxpayers' money to reimburse Billy Dale and setting a precedent, which, as far as we can determine, is, indeed, a precedent, paying the attorney's fees of someone who is properly and legally indicted.

We do not have a record of the facts upon which we can make such a judgment.

Finally, Mr. President, there is a process in law to get that record. This legislation is effectively a private relief bill. In fact, the Parliamentarian has already ruled that the freestanding bill is a private relief bill for Billy Dale.

There is a statutory procedure, 28 U.S. Code, section 2509. That procedure provides that the Court of Claims can determine whether or not private relief sought from Congress and the taxpayers by an individual or group of individuals is appropriate.

Under that statute, the Court of Federal Claims, on referral from either the Senate or the House, is required to determine if there is a legal or equitable claim to taxpayers' money or whether such payment would be simply a gratuity. The statute provides the following in part, and here I am reading section 2509 of 28 U.S. Code:

Whenever a bill is referred by either House of Congress to the chief judge of the United States Court of Federal Claims, the chief judge shall designate a judge as hearing officer for the case and a panel of three judges of the court to serve as a reviewing body.

Each hearing officer and each review panel shall have authority to do and perform any acts which may be necessary or proper for the official performance of their duties, including the power of subpoena and the power to administer oaths and affirmation.

The hearing officer shall determine the facts and shall append to his findings of fact conclusions sufficient to inform Congress whether the demand is a legal or equitable claim or gratuity and the amount legally or equitably due from the United States to the claimant.

Referral under this statute to the Court of Claims would require the court to develop a factual record outside the rhetoric of politics upon which we could either then base a judgment or, in the case of the amendment that has actually been filed, all that would be necessary is for the Court of Claims to determine that, in fact, it is an equitable claim. And then the legal fees would be automatically paid. We would be given a report under the amendment which the Senator from Nevada filed, but it would not have to come back here for further action. We would authorize these attorney's fees subject to a determination and finding by the Court of Claims pursuant to a law which is on the books that that is an equitable claim against the United States.

Surely, we owe that much to the American taxpayers who would be paying this bill, and we owe that much to ourselves before making a decision on overturning decades of precedent. That is what the amendment would do.

Again, it allows for the five Travel Office employees who were not indicted to receive the final reimbursement of $50,000 for their legal fees, which I think we all support. But it would refer the matter relative to Billy Dale's attorney's fees to the Court of Federal Claims for determination on the merits, and if the court determines that Billy Dale has either a legal or equitable claim, then this amendment would provide Billy Dale would be paid directly at that time when the findings of the Court of Claims become final.

No additional action would be required other than a report to us of what that final decision is. If, however, the court were to conclude that the payments to Billy Dale were not based on a legal or equitable claim but would be a gratuity, then the fees would not be paid.

This is a routine procedure. We use this procedure dozens of times. We refer cases to the Court of Claims all the time. We do it with private relief bills all the time. Sometimes the court finds that there is a legal or equitable claim; sometimes it finds that it is a mere gratuity. But before we set a precedent that we may come to regret, there should be, from some objective source, a determination that this claim is a legal or equitable basis.

Adoption of the Reid amendment, which has been cosponsored by myself and Senator BIDEN, is the surest way to remove this issue from politics, which is regrettably infused. Mr. President, I yield the floor.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah is recognized.

Mr HATCH. I yield to the distinguished majority leader. I would like to retain my right to the floor.

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. LOTT. Mr. President, I thank the distinguished Senator from Utah for yielding, but I do think we need to notify our Members of where we are. It will not take me but just a moment.

For the information of all Senators, earlier this evening the Senate reached an agreement which limits the amendments in order to the Treasury-Postal Service appropriations bill. The managers have been working, along with the leadership representatives, with a number of Senators, to reduce that list, instead of just a large list of amendments here.

However, the grand total of amendments on the list is somewhere between 95 and 97, I guess, amendments, which certainly is unsatisfactory at this point. It makes it very difficult for us to be able to complete the bill. But in order for the managers to continue to work and try to reduce these amendments or to clear some of the amendments, I would like to announce now, there will be no further votes this evening, and any votes ordered tonight on this or other amendments will be stacked at 9:30 a.m. on Thursday.

Senators should be aware that the managers are here and are willing to debate, perhaps accept amendments or to conclude some of the amendments that are now being debated. Members should expect rollcall votes, of course, throughout the day on Thursday. It would be my intent, in the morning, after consultation with the managers and the minority leader, that we would continue on amendments in the morning.

After the stacked votes, if any, at 9:30—we had hoped to go to the Chemical Weapons Convention at 10 o'clock in the morning. It looks like we will have to just delay that and see where we are, which means that we could have to go very, very late into the night on Thursday night, could actually have to go over until Friday to have a vote on Friday morning.

In any event, there will not be any votes after 12 noon on Friday, since it is a Jewish holiday. I had hoped we could come to some reasonable conclusion on this bill, get it completed, and then spend the necessary time tomorrow on the Chemical Weapons Convention.

It is my intent to go to the Chemical Weapons Convention tomorrow. I just do not know when it might be now in an effort to try to get some conclusion on these amendments and complete this bill. But there will be no further rollcall votes tonight. The next vote will be at 9:30 in the morning, if any are ordered.

Does the minority leader have any comment?

Mr. DASCHLE. Mr. President, let me just say, I want to thank the Members of our leadership for working with Members on our side. As I understand it, the list is quite extensive on both sides. There are 51 Republican amendments and almost that many, not quite that many, Democratic amendments. But we are going to do our best to work with the majority leader to see if we can bring that list down substantially by tomorrow.

Obviously, Senators would be very helpful to both of us if we could limit the amount of time on many of those amendments and offer additional amendments tonight. There is no reason even if there are no more votes why we cannot have a number of amendments yet tonight. So, hopefully we can do that and be in a much better position to come to some final assessment as to what the list looks like by midmorning tomorrow.

Mr. LOTT. Mr. President, just in conclusion, certainly we will be working with the Senator from South Dakota. We will get this list pared down to what I guess is a real list, probably two or three or four or five max. I do not know why we have to go through these exercises, but we do, and we will do the best we can.

Again, under the rules we have, every Senator has his right or her right to make their case, and we will work with them on that. But I do want to remind Senators, a lot of times they think, ''Well, this will kind of just go away, and I won't have to stay late tomorrow night, and I can fly home tomorrow night or I'll be able to leave Friday morning.''

There are some things around here that have to occur. And we have a unanimous-consent agreement on the Chemical Weapons Convention. I have an obligation to call that up. And I am going to. It requires 10 hours under the rule. We can either cut that time down or we can take the whole 10 hours. We can go late tomorrow night. But if we do not begin until 1 or 2 or whatever time, it would be very late tomorrow night, and we could not do anything about it basically. That one would go until we got to the end.

So when Senators come, pleading, saying, ''I want to go home,'' there would not be anything we could do if we wanted to. Or I guess one other option is, we can go over and have a vote on that on Friday morning. I know that there are some Members of the Jewish faith who would like very much on their holiday to be able to leave on Friday morning so they can be with their families before the Jewish holiday begins. I would like to honor that, but we are in a bind here.

If we finish this bill at a reasonable time, we can go to chemical weapons at a reasonable time. We either get a time agreement, or vote late tomorrow night, or vote on Friday. This is one time where the leadership is not going to have a lot of options.

So I plead, once again, with our Members, let us be reasonable. This is not the last train. We still have plenty of times to play games, if we insist, on both sides of the aisle. I am not putting the other side down. We have ours on there, you have yours. So let us agree to hold hands and do this bill, and we can save all of our choice, lovely, luscious amendments for the next bill or the next bill. We still have 3 weeks. We do not have to do it on this one. Then we can do two very important bills—Treasury-Postal Service, Chemical Weapons Convention. And I believe we can work on that in the morning. I have seen miracles happen around here before. Maybe we could come up with one in the morning.

Mr. REID. Would the majority leader yield?

Mr. DASCHLE addressed the Chair.

The PRESIDING OFFICER. The minority leader is recognized.

Mr. DASCHLE. Might I just make one other point.

I appreciate the indulgence of the Senator from Nevada.

As I look at the list on both sides, the one thing I think the majority leader will agree with me on, about two-thirds, if not three-fourths of those amendments are legislative amendments. I believe we made a very big mistake a year ago in overriding the Chair on the question of legislating on appropriations bills.

I think we are paying a heavy price, and will continue to pay a heavy price, so long as we continue to insist that even on appropriations bills we can add anything to everything. And that issue will come back. It stung us and it has caused us more problems in the last 2 years than virtually anything else. I think it was a big mistake. Our Republican colleagues insisted at the time to overrule the Chair and allow the practice of legislating on appropriations bills, so these amendments are fair game. But we are now paying the price, and continue to pay the price so long as that issue becomes almost a joke with regard to these appropriations bills.

So I think when we get back for the 105th Congress, and when we have the opportunity again, in the majority, to deal with this issue, I hope we can restore the rule.

Mr. LOTT. The majority will certainly look at that very closely because we will be working in the majority with the minority. I think this is one case where maybe we can agree and in fact change the rule or take action to bring some reasonableness back to this area. I think I agree with what the Senator is saying. Let us work together no matter, you know, which party is in control to get that resolved.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. REID. While both leaders are on the floor, speaking for me, this Senator, and for—sorry.

Mr. LOTT. I believe that is correct. I believe the Senator from Utah had yielded to me.

Mr. REID. I am sorry.

Mr. HATCH. I will be happy to yield for a question, and then retain my right to the floor.

Mr. REID. I want to make a brief statement. I apologize.

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

Mr. REID. While both leaders are here, I want them to understand that, speaking for this Senator, Senator LEVIN and Senator BIDEN, we do not intend to hold this bill up because of the amendment we have offered. However, if we do not get a vote on our amendment, then we have no alternative. We need an up-or-down vote on our amendment. And the procedure, the way things are now before us, we will not be able to do that. So we will agree to a time agreement, and be totally reasonable, but we want an up-or-down vote on whether or not this matter should be referred to the Court of Claims.

Mr. DASCHLE. Mr. President, would it be in order to ask unanimous consent to get a time agreement, say, for additional debate of no more than an hour and 20 minutes? I am prepared to offer one of the amendments I was planning to offer in order to accommodate the schedule if we could, perhaps, divide the next 90 minutes equally.

Mr. HATCH. I might add, it is going to take me a little bit of time to rebut what they have said. I will certainly be amenable to trying.

Mr. DASCHLE. How much time does the Senator from Utah need?

Mr. HATCH. I have no idea. I imagine 45 minutes to an hour.

Mr. REID. I need about 15 minutes if I get an up-or-down vote on my amendment sometime through this process.

Mr. DASCHLE. I would like about 10 minutes, so perhaps we could take an hour on the Republican side and a half hour on the Democratic side.

Mr. LOTT. I believe the chairman of the committee has some comments.

Mr. DASCHLE. Could we ask unanimous consent that the time for the amendment be divided two-thirds/one-third, providing the Republicans with an hour, the Democrats with half an hour, beginning at 8:45, with a vote to be held tomorrow morning.

Mr. LOTT. Is this on the Hatch amendment?

Mr. HATCH. And the Reid amendments, back to back, following the end of the debate.

Let me say this: The proponents have taken 2 hours; I believe I can finish in about an hour, and I will try to do it in less time than that, but I do have to rebut what they have had to say because I think it has been outrageous.

Mr. REID. If the Senator would yield again, I have no problem with the reasonable suggestion made by the Democratic leader as long as we have a vote on both amendments.

Mr. SHELBY. I wonder if the Democrat leader would yield?

Mr. DASCHLE. I yield.

The PRESIDING OFFICER. The Senator from Utah has the time.

Mr. HATCH. The parliamentary situation is that the Reid-Levin amendment has been filed. We filed a second-degree amendment. Their amendment would go to the Court of Claims. Frankly, I do not see any reason why, if we went on my amendment, why you have to have a vote on your amendment.

Mr. REID. That is the whole problem. We want a vote. We want the Senate to vote as to whether that matter should be referred to the Court of Claims. If the Senate says no, we will walk away from this.

If we only get a vote to keep this in the bill, then I think I can speak for the Senator from Michigan and the Senator from Delaware, we are going to talk here a while.

Mr. HATCH. You are going to filibuster the bill over that issue?

This is legitimate. You filed an amendment; we filed a second-degree amendment.

Mr. DASCHLE. Would it accommodate both to have two freestanding amendments back to back, voted up or down at 9:30? That would accommodate everyone and resolve the matter, and we could move on to other issues.

Mr. HATCH. Fine with me.

Mr. LOTT. Mr. President, I believe we can get an agreement to that. I want to clarify the time that we are talking about.

Mr. HATCH. Will the Senator yield? I will move to table the Reid amendment, but it would be a vote up or down.

Mr. REID. We understand. We would have an opportunity to offer our amendment, and you could move to table it.

Mr. LOTT. I believe that would do it.

Mr. President, I thank the Democratic leader for the suggestion in trying to put that in motion here.

I ask unanimous consent that the time on the pending issue be limited to 60 minutes under the control of Senator HATCH, with 50 minutes to Senator HATCH and 10 minutes with Senator SHELBY, and then 30 minutes of time under the control of Senator DASCHLE or his designee, and votes occur first on the amendment No. 5257, and then on or in relation to the amendment of the Senator from Nevada, and that vote occur at 9:30.

Mr. DASCHLE. It would accommodate a Senator if that vote could occur at 9:45.

Mr. LOTT. We would have that vote at 9:45. Every time we do that, it pushes the Chemical Weapons Convention further back down, but the vote is to occur at 9:45.

I also ask each amendment be in the first degree and no second-degree amendments be in order.

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

Mr. HATCH. Mr. President, this has to be one of the most hypocritical White Houses in this century. And that is really saying something. Frankly, I think it is abominable, absolutely abominable. And my colleagues on the other side of the aisle are attempting to retry Mr. Dale right here in the Senate. Senator LEVIN, the distinguished Senator from Michigan, is even suggesting that Billy Dale should have been found guilty.

Fortunately—fortunately—our system calls for a more equitable fair process. Mr. Dale has been tried by a jury of his peers, and he was acquitted in less than 2 hours. I think there is a principle called double jeopardy. I am really amazed that after this man was smeared by the White House—for greedy purposes, to help their buddies, the Thomasons, and their relative, Ms. Cornelius—was put through an abysmal trial that cost him $500,000. And this outfit is acting like something should not be done.

I found the White House critical in this issue, and that is an understatement. The fact is, these people were smeared. They were treated improperly. They were abused. The FBI was abused, and it was all done for the purposes of greed, so they could take care of their buddies.

The fact of the matter is, if you look at what has happened here, it is just pathetic. A memorandum we got from the White House admits to the wrongdoing:

> You all may dimly remember the Travel Office affair in which a number of White House staff, many immature and self-promoting, took impulsive and foolhardy actions to root out problems at the beginning of the Clinton administration and gallantly recommended they take over its operation.

Those comments were from the White House itself.

Now, let me read from the Watkins memorandum. This is an interim White House memorandum. I ask unanimous consent to have this printed in the RECORD.

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

[Privileged and Confidential—Memorandum]

From: David Watkins.

Subject: Response to Internal White House Travel Office Management Review.

In an effort to respond to the Internal Travel Office Review, I have prepared this memorandum, which details my response to the various conclusions of that Report. This is a soul cleansing, carefully detailing the surrounding circumstances and the pressures that demanded that action be taken immediately. It is my first attempt to be sure the record is straight, something I have not done in previous conversations with investigators—where I have been protective and vague as possible. I know you will carefully consider the issues and concerns expressed herein.

As a preliminary matter, the procedure followed in finalizing the report was needlessly unfair. Even in the context of General Accounting Office audits and reviews, the reviewed agency is afforded the opportunity to respond to the report and criticisms prior to

release and publication. This is an important step which allows inaccuracies or erroneous conclusions to be addressed and corrected prior to publication, and more importantly, allows the criticized party to respond to the contents of the report. Unfortunately, in this case, neither I nor others directly involved were afforded any opportunity to rebut the contents and conclusions of the internal Review.

In this case, I was notified of the forthcoming reprimand around 10 a.m. on July 2. But I received a copy of the report shortly after noon the same day, and at the exact time from that briefing the report was publicly released. I was never afforded the opportunity to respond, and until this memorandum, I have never responded to the report or its contents.

With the recent release of GAO audits and the resultant press coverage and criticism of my office, setting the record straight on the Travel Office occurrences is important.

BACKGROUND

As you recall, an issue developed between the Secret Service and the First Family in February and March requiring resolution and action on your's and my part. The First Family was anxious to have that situation immediately resolved, and the First Lady in particular was extremely upset with the delayed action in that case.

Likewise, in this case, the First Lady took interest in having the Travel Office situation resolved quickly, following Harry Thomason's bringing it to her attention. Thomason briefed the First Lady on his suspicion that the Travel Office was improperly funnelling business to a single charter company, and told her that the functions of that office could be easily replaced and reallocated.

Once this made it onto the First Lady's agenda, Vince Foster became involved, and he and Harry Thomason regularly informed me of her attention to the Travel Office situation—as well as her insistence that the situation be resolved immediately by replacing the Travel Office staff.

Foster regularly informed me that the First Lady was concerned and desired action—the action desired was the firing of the Travel Office staff. On Friday, while I was in Memphis, Foster told me that it was important that I speak directly with the First Lady that day. I called her that evening and she conveyed to me in clear terms that her desire for swift and clear action to resolve the situation. She mentioned that Thomason had explained how the Travel Office could be run after removing the current staff—that plan included bringing in World Wide Travel and Penny Sample to handle the basic travel functions, the actual actions taken post dismissal and in light of that she thought immediate action was in order.

On Monday morning, you came to my office and met with me and Patsy Thomasson. At that meeting you explained that this was on the First Lady's ''radar screen.'' The message you conveyed to me was clear: immediate action must be taken. I explained to you that I had decided to terminate the Travel Office employees, and you expressed relief that we were finally going to take action (to resolve the situation in conformity with the First Lady's wishes). We both knew that there would be hell to pay if, after our failure in the Secret Service situation earlier, we failed to take swift and decisive action in conformity with the First Lady's wishes. You then approved the decision to terminate the Travel Office staff, and I indicated I would send you a memorandum outlining the decision and plan, which I did.

I have never stated all this so clearly before, but to form a complete and accurate picture it must be kept in mind while reading the specific criticisms of the Podesta Management Review. I will now address those criticisms directly.

RESPONSE TO SECTION II ''DISCUSSION OF PRINCIPAL ISSUES'' OF TRAVEL OFFICE REVIEW

''Travel Office Management'' (Page 14):

''The review conducted by KPMG Peat Marwick uncovered serious financial mismanagement.'' At .

At the strong recommendation of myself and others in my office, KPMG Peat Marwick was brought in—instead of having the FBI take over immediately—to review the financial practices of the Travel Office. I concurred in Peat Marwick's analysis and conclusions: Management of the Travel Office was abysmal.

''Treatment of the Travel Office Employees'' (Page 15):

''While all White House Office employees serve at the pleasure of the President, the abrupt manner of dismissal of the Travel Office employees was unnecessary and insensitive.'' At ___.

In the conversation with the Travel Office staff notifying them of their termination, I explained that a review of the Travel Office operations had always been planned to conform to the general review process implemented across the White House administrative offices and the Office of Administration. I further explained my decision to terminate them; I explained that from a management perspective, in this case it was best to relieve them all immediately from their jobs and provide them a additional two weeks in pay. I informed them of this and asked them to leave immediately. The tone was firm, with emphasis on the mismanagement recounted in the Peat Marwick report. I explained that in light of that mismanagement, it was best to dismiss the entire office.

The allegation in the report that this was insensitive is wrong. These employees work at the pleasure of the President and all in the White House Office should understand that there is extremely low tolerance for the severely negligent and unaccountable procedures followed in that office. In light of the First Lady's insistence for immediate action and your concurrence, the abrupt manner of dismissal, from my perspective, was the only option.

''Moreover, the Peat Marwick report did not furnished efficient cause for terminating the employees without financial authority. As a legal matter, the White House has this right to terminate an employee without cause. In this case, however, the White House asserted that this termination of all seven was for cause. Based on the information available, this assertion was inappropriate with respect to the employees who did not exercise financial authority. . . . Abuses cause, in some humans approach was in order. For example, even if it were decided that the Travel Office would operate more efficiently with a reorganized, smaller staff, an effort could have been made to locate other federal employment for those who would be displace.'' At 15.

As early as February, the intent of Management and Administration was to review and reorganize the Travel Office before October 1 into a leaner operation—just as with every other office within the domain of Management and Administration, from the Photo Office to the Telephone Office to the Travel Office. That remained the plan until the intense pressures surrounding this incident arose in May. If given time to develop, the original plan to reorganize the Travel Office for a smooth transition in September would have allowed the Travel Office employees to seek other federal placement, along with other Executive Office of the President staff, in anticipation of the end of the fiscal year staff cuts; however, when pressure began to build for immediate action in the Travel Office, the long-term plans were short-circuited.

''The other major White House mistake in the treatment of the former Travel Office employees was in tarnishing their reputations. This resulted, in discussed above, from the inappropriate disclosure of an FBI investigation into potential wrongdoing in the Travel Office. (p. 15) * * * It was a mistake for the White House to publicly discuss FBI involvement, which led to the disclosure of the FBI investigations. * * * The talking points prepared by Watkins' office for the press office stated that the White House had asked the FBI to investigate. Eller had also sanctioned the FBI in an earlier draft of talking points. In making that reference, Watkins and Eller were insensitive to the effect such reference can have on the reputation of an innocent person. This mistake was compounded when Fouter's and Kennedy's instruction to eliminate the FBI reference was not carried out. Watkins did attempt to reach Myers, and Eller himself omitted the FBI references in his own background press briefings the morning of May 19. However, neither ensured that Myers avoided the reference.'' At 18.

Revealing the ongoing FBI investigation was insensitive, but that fact comprised one sentence in a draft version of talking points drafted by one of my staff and distributed for comment on the morning of May 19—the day of the termination. The talking points were distributed to Foster, Kennedy, Myers, and Eller with the expectation that we would have until the 2 o'clock press briefing to get the kinks worked out of the talking points. As soon as the suggestion came to delete the reference to the FBI, it was done. I immediately went to see Myers to inform her of the change and sensitivity to the ongoing investigation, but she had gone to the Hill with the President. I struck that sentence from Eller's copy and asked him to inform Myers. As soon as Myers returned from the Hill, prior to noon—more than an hour before the press briefing—I proceeded to her office and told her not to mention the FBI investigation She informed me that it was too late. She had already responded by phone to a reporter's inquiry by phone.

Thus, this was a mistake made on my part because I was not intuitive enough to take the talking points drafted by one of my staff and realize that the FBI investigation should not be mentioned—despite the strong support this provided for White House actions.

''Catherine Cornelius also played a role in the dismissal of the Travel Office employees, and she to had a personnel stake in the outcome. As the three memos she wrote on the Travel Office attest, who was eager to work in and, if possible, manage the Office. Her proposal to reorganize the travel office was appropriate and would be considered usual to any transition process. But her role in the decision-making process after she came, in effect, an 'accuser' of the Travel Office employees, by collecting documents and alleging possible wrongdoing, was inappropriate. * * * [E]very effort should be made to insulate the federal government's management decisions from even the appearance that personal interests have played a role in the outcome of those decisions.'' At 20.

Catherine Cornelius had no part in the dismissals. I put no stock in most of what Cornelius told me except to the degree it was factual. Her arguments for dismissal and reorganization had absolutely no bearing on the final decision to terminate the employees. If her input had been respected, the need for Peat Marwick would have been negligible, but in light of her self-interest and

her tendency to exaggerate, I decided to rely exclusively on a professional accounting firm. Catherine Cornelius, despite the Review's suggestion to the contrary, had absolutely no role in the decision-making process, and was in no danger of being placed in charge of the Travel Office. My intent all along was to put a trained financial manager over all the White House administrative operations, including the Travel Office.

When I assigned Catherine to the Travel Office, I did ask her to provide a report to me on May 15 based on her previous experience and actual experience in the Travel Office. She was placed in the Travel Office because of her prior experience in that area and a need to move her out of my immediate office—where she had become a liability to daily operations. Having had extensive experience with Catherine, I knew that her report would contain unworkable recommendations, but as I have in the past, I expected to distill those with which I disagreed from those I thought helpful. Unfortunately, due to her desire to revamp the Travel Office in her own likeness, Catherine may have ignored my intent to carefully review and scrutinize any recommendations made.

After Catherine became an ''accuser'' of the Travel Office staff, her input was merely on a factual level. I interviewed her to derive the factual basis of her allegations and for facts about the tasks performed by the Travel Office staff, but never asked for other, non-factual input other than the May 15 report I was expecting. All views she expressed were evaluated in light of her known bias. To put it simply, she had no impact on the decision-making process other than by providing factual information.

''The White House took several actions that demonstrated an insensitivity to the appearance of favoritism. Hiring World Wide Travel on a no-bid basis—even as an interim, stop-gap measure—created the appearance of favoritism toward a local friend from the campaign. World Wide's president, Betta Carney, is a long-time acquaintance of Watkins. Watkins' Little Rock advertising agency was a client of World Wide in the 1970s and World Wide was a client of Watkins' agency during that time period.'' At 20.

Part of the plan for immediate replacement of the Travel Office staff was use of World Wide Travel Service to book commercial flights for the Office. This aspect of the plan was discussed with all interested parties, and all concurred with knowledge that World Wide had been the campaign's travel agent. This made the most sense due to the fact that we could not have publicly solicited bids in light of confidentiality concerns and when we had ongoing business needs that had to be taken care of immediately following the terminations.

As for my longtime acquaintance with Betta Carney and World Wide Travel, I must point to my experience in the business world. There, reliance on a firm from whom one has received exceptional service is the rule.

As well, since the time I was a client of World Wide's and since World Wide was a client of my advertising agency in the 1970s, I have personally and professionally used at least half a dozen other travel services. So, any suggestion that calling them in this case derived from that history is absurd, and the media suggestions of improper favoritism were likewise absurd.

We had recent experience with World Wide, and based on that experience I knew we could rely on them for confidentiality in handling and preparing to handle the Travel Office business, until the business could be subject to full and open competition.

''None of this implies any improper conduct by World Wide, which is a well-established, successful travel agency, twenty-third largest in the country. World Wide executives understood that they could secure White House business only through an open, competitive bidding process. But the impression of favoring a local supporter was impossible to dispel.''

At this point in the sequence of events, with the current plan approved by the First Lady and yourself including resort to World Wide Travel, it would have unnecessarily heightened confusion to recruit an unknown travel service. Again, a primary source of the problem was the abruptness caused by the calls for immediate action in the Travel Office and the at least daily inquiries. If my plan to slowly shift as the fiscal year came to a close had remained intact, a travel agent would have been procured in a more transparent fashion. However, since at the time of hiring World Wide it was known that they had a GSA contract, hiring World Wide was not as questionable or ''non-competitive'' as the Report or the press would have one believe.

''Bringing in Penny Sample, President of Air Advantage, to handle press charters on a no-bid, volunteer basis furthered the appearance that the White House was trying to help its friends. Sample was the Clinton-Gore campaign's charter broker and a close associate of Darnell Martens. This implies no improper conduct on Sample's part, but, again, created an appearance of favoritism.'' At 20.

Like World Wide Travel, Penny Sample was part of the short-term plan for running the Travel Office after the terminations. Since she was willing to volunteer her services without her or her company receiving any compensation—because we realized, like they did, that they would be conflicted out of virtually all White House business—we believed the conflicts and appearance of favoritism issue had been sufficiently addressed. Again, we did not believe it to be favoritism to have a former service provider for the campaign volunteer to assist the White House.

''White House Management'' (Page 21):

''The White House made a number of management mistakes in handling the Travel Office.''

''Lax Procedures''

''The responsibility for Thomason's influence on the Travel Office incident must be attributed to White House management. Thomason should have avoided continued involvement in a matter in which his business partner and his friends in the charter business stood to benefit and in which there was an appearance of financial conflict of interest. But lax procedures allowed his continued participation in the process. . . . There should be better management control with respect to the mission that any non-White House staff person is brought in to carry out. Permitting Thomason—or any non-staff person who comes in on special assignment—to work on problems outside the scope of his or her assignment is not a good practice.'' At 21.

Management and Administration had no part in bringing Thomason into the White House. In fact, the responsible office failed or intentionally neglected to inform Management and Administration of the nature of his work. Contact with this Office on the subject consisted only of the First Lady's Office calling to insist on immediate access for Thomason.

''Placing Cornelius in Travel Office.''

''Given Cornelius' personal interest in running the Travel Office, Watkins should not have placed her in the Office to make recommendations on how the Office should be structured.''

As stated above, Catherine was placed in the Travel Office because of her experience in travel and to allow her to make a meaningful and significant contribution to this Administration. The original assignment was made to see if she would work there permanently—if she liked that work and if it likewise suited her. The report I asked her to draft and provide on May 15 was in no way the driving force for her assignment to the office, it was simply a way to help determine her long-term suitability. She was placed in that office because of her extensive experience since October 1991 in coordinating travel for then-candidate Bill Clinton. She was not placed in the Travel Office primarily to make recommendations on its future structure.

''Watkins compounded the problem where in responses to Thomason's complaints, he asked Cornelius to be alert to possible wrongdoing or corruption. Cornelius lacked the experience or preparation for this role. Nor was she given my guidance.'' At 21.

Catherine was not asked to investigate or document wrongdoing by the Travel Office staff. I understood that she lacked experience to perform such a task. Catherine was merely asked to observe what transpired in the Travel Office—nothing further was requested or expected. Special training is not needed to keep one's eyes and ears open, to observe. I never asked her to collect documents or other information; she undertook this of her own volition.

''If, in April, Watkins thought the allegations reported by Thomason should be looked at more seriously, he should have done so in a more professional manner.'' At 21.

The suggestion that this could be more professionally handled is absurd. I noted the allegations, but thought they could wait for review—and knew they would be examined—during the course of the planned internal review of the Travel Office. For that reason, no action was taken other than to ask to Catherine to ''keep her eyes and ears open.''

''Poor Planning.''

''There was no adequate plan in place to manage the Travel Office in the aftermath of the dismissals.'' At 21.

Harry Thomason indicated that he could put a more efficient structure in place in an hour's time to handle all the tasks of the Travel Office. While I believed that my original plan to carefully review the Travel Office would best serve the White House, when I spoke with the First Lady on Friday night, May 14, she cited Thomason's plan as support for the need for immediate action. That action involved utilizing World Wide Travel and Penny Sample in the short term. As well, in my memo to you on May 17 explaining my intent to terminate the Travel Office employees the next day, the intention to use World Wide Travel was outlined. You approved this action based on this memo prior to the actual terminations.

''For example, no one in the decision-making chain spoke to the White House press and press advance staff members who worked closely with the Travel Office employees, knew the employees there, understood the services they provided and the degree to which they were relied upon by members of the travelling press and other considerations. None was contacted by Watkins.'' At 22.

In light of the need for absolute confidentiality, it would have been foolhardy to consult the press or press advance staffs. From the staff review and Catherine Cornelius' experience (this is the primary area where her factual expertise was relied upon), we in fact did know the services that the Travel Office staff performed. Catherine Cornelius and Harry Thomason regularly and repeatedly reassured me that the press charter function

could easily be assumed with the assistance of Penny Sample. ''Thus, plans to replace these aspects of the Travel Office functions were in place prior to the dismissals. Then, when the need for immediate replacement became evident, I committed to provide whatever manpower was needed to perform the services the Travel Office staff had performed.

Immediately following the dismissals, meetings were held with the press and press advance staff to make all necessary arrangements for upcoming trips. These discussions came after the fact, but were accompanied with a commitment from my office for all necessary resources to perform the job.

''The absence of a plan prompted the last-minute use of World Wide Travel and Penny Sample of Air Advantage, which fueled the charges of favoritism already discussed.'' At 22.

As explained above, the plan was to use World Wide Travel and Penny Sample; there was no absence of a plan. Because of the need for confidentiality and the need for quick action, reliance on those with whom we had experience seemed the only rational decision. Having performed superbly in the campaign and in light of our need for immediate travel agent support—due to the pressure for immediate action from several quarters—we decided the plan would include short-term reliance on World Wide Travel.

I would have much preferred to have my staff carefully review the Travel Office and make a detailed business plan for the new fiscal year. This proved impossible, though, when the pressure for action from the First Lady and you became irresistible. This demand for immediate action forced me to accept hastily formulated plans for hasty, inadvisable action.

''Overview.''

''The management problems in the handling of the Travel Office extended beyond the White House Office of Management and Administration. The Chief of Staff and the White House Counsel's Office had the opportunity to contain the momentum of the incident, but did not take adequate advantage of this opportunity.'' At 22.

''The process should have been handled in a more careful, deliberate fashion. Before any decision was made, the Travel Office employees should have been interviewed and other White House staff who understood the operations of the Travel Office should have been consulted. If dismissals were deemed appropriate, a new structure should have been designed and readied for implementation before any action was taken. Throughout, the process should have treated the Travel Office employees with sensitivity and decency.'' At 22.

As stated above, I too would have much preferred to have my staff carefully review the Travel Office and formulate a detailed business plan for the new fiscal year. This proved impossible, though, when pressure for action became irresistible. It forced me to accept hastily formulated plans for hasty, inadvisable action.

CONCLUSION

I think all this makes clear that the Travel Office incident was driven by pressures for action originating outside my Office. If I thought I could have resisted those pressures, undertaken more considered action, and remained in the White House, I certainly would have done so. But after the Secret Service incident, it was made clear that I must more forcefully and immediately follow the direction of the First Family. I was convinced that failure to take immediate action in this case would have been directly contrary to the wishes of the First Lady, something that would not have been tolerated in light of the Secret Service incident earlier in the year.

For this reason, I was forced to undertake the Travel Office reorganization without a business plan firmly in hand—something I had never before done in years as a management consultant, where such plans were my business.

All failings outlined in the Podesta Management Review were either mistaken and groundless criticism, or were based on actions dictated by the need for instant action. This reorganization required more careful review, but in this case that possibility was foreclosed. Delaying action was beyond my control.

Mr. HATCH. I am absolutely astounded that people would come here and try to try Billy Dale again.

I am now going to quote Mr. Watkins:

On Monday morning, you came to my office and met with me and Patsy Thomasson. At that meeting, you explained this was on the First Lady's radar screen. The message you conveyed to me was clear: immediate action must be taken. I explained to you that I had decided to terminate the Travel Office employees, and you expressed relief that we were finally going to take action (to resolve the situation in conformity with the First Lady's wishes.) We both knew that there would be hell to pay if after our failure in the Secret Service situation earlier, we failed to take swift and decisive action in conformity with the First Lady's wishes. You then approved the decision to terminate the Travel Office staff, and I indicated I would send you a memorandum outlining the decision and plan, which I did.

This is a memorandum, which is marked privileged and confidential, is from David Watkins in response to the internal White House Travel Office Management Review. The White House even admits they were doing the wrong things.

The distinguished Senator from Michigan claims this case should be referred to the Claims Court because the Senate has not done a report on the issue. I disagree: the facts in this case are not in dispute. The reason you have a Claims Court proceedings is because you have disputed facts. In this case, the facts are not in dispute.

And these facts have been well-documented: no less than four reports have been done on this issue, as well as 2 years' worth of investigations and hearings, and a debate on the floor of this chamber that was filibustered when the bill was filibustered as a free-standing bill. Two years' worth of investigations and hearings on the House side has established the facts. The only reason to refer this case to the claims court would be if the facts were in question. The facts, in this instance, are not even in dispute.

I might also add that the other side has referred to a document that, for all intents and purposes, is a privileged document that should never have been made public. It is the prosecutor's memorandum.

Somebody has violated the most sacred canons of ethics in giving a prosecutor's memorandum, which tells the Government's side of the case. My colleagues have read from it like it is fact, when, in fact, it isn't fact. They refer to two documents—one is the ''prosecution memorandum,'' and the other is a ''plea agreement.''

Now, where did they get those documents? Those documents are not permitted to be given to anybody. Somebody at Justice or the prosecutor's office has violated the most sacred canons of ethics, giving a memorandum of one side of the case, which may or may not be the true facts with regard to the other side. In this case, they are not the true facts. They are relying on confidential documents that were given improperly—through the Department of Justice, I presume. The Administration ought to know better than that.

Those documents are protected under the Department of Justice' own regulations. Once again, this is a politicization of the Justice Department, or the prosecutor's office, one or the other. There is no other way it could be. If the Justice Department has allowed White House people to get these documents, which apparently has been the case here, so they could leak them to Members of Congress to smear again Billy Dale and his colleagues, then that is further evidence of hypocrisy.

One thing I found interesting, is the quote the distinguished Senator from Nevada has on the chart behind him. Notably, it is only part of the quote. Let me read the whole quote. I am reading from a response from Billy Dale's lawyer to an op ed written by Robert Bennett to the Wall Street Journal. In the op ed, Mr. Bennett suggested that Billy Dale had entered a plea agreement of guilty, which he never did. Mr. Bennett was incorrect in his suggestion that the letter of the counsel for Billy Dale of November 30, 1994, constituted a willingness by Billy Dale to admit the charge of embezzlement of which he was acquitted. The attorney for Billy Dale criticized Mr. Bennett because he said that Mr. Bennett accurately quoted the first sentence of that letter which stated that Mr. Dale was prepared to enter a plea of guilty to one single count under 18 U.S.C. 654. However, Mr. Bennett, as well as my friend from Nevada on his chart, chose to omit the sentence that immediately follows. That sentence says that Mr. Dale would not admit to any intent to defraud or to permanently deprive anyone of the money that was represented by the checks he deposited in his personal account.

This admission is imperative in order for the Government to have an actual plea. In order to take a plea, Mr. Dale would have had to have admitted or pled guilty to defrauding the Government. Mr. Dale refused to do that. Now, the quote illustrated by the distinguished Senator from Nevada doesn't give the full facts. Instead of giving the full facts, the distinguished Senator from Nevada is attempting to retry Mr. Dale's case on the Senate floor. I think that it is wholly improper, especially when a jury tried it

and Mr. Dale was acquitted within 2 hours.

I will tell you one more thing. I am going to refer the matter of the leaking of confidential documents by the Administration to the Office of Professional Responsibility, because the Justice Department has acted irresponsibly, or the prosecutor's office has acted irresponsibly.

I oppose the Reid amendment that would strike the provision to reimburse Billy Dale and to refer his case to the claims court. As I reiterated time and again, reimbursement of these legal fees simply remedies the grave miscarriage of justice that resulted in the investigation of Billy Dale and the other former White House Travel Office employees, which they are willing to reimburse. They are unwilling to admit, as really gentlemen ought to, that they have smeared this man, that the White House deliberately did it, that they were acting pursuant to Mrs. Clinton's demands, according to Watkins—that was a memorandum written at or near the time of the demands—that the White House acted out of greed, and that they put Mr. Dale through a half-million dollars of legal fees, not to speak of the loss of reputation, the bad publicity, the tremendous strain of going through a criminal trial when they knew he did nothing wrong. Then, my colleagues on the other side of the aisle come here to the floor of the Senate and claim that Mr. Dale entered a plea of guilty.

Let me tell you something. I have been around courtrooms for many years of my life. I know a number of people who weren't guilty that would enter a plea to some really minor, lesser count so that they would not get bled to death with attorney's fees, court costs, ulcers, bad health, ruination of the family, and 101 other things that happen. Anybody that doesn't understand that has never been in a court of law, or at least doesn't understand, or just plain isn't telling the truth.

For many months, the Congress and the Nation believed President Clinton had supported Mr. Dale's reimbursement. In fact, I publicly commended the President on numerous occasions for his equitable decision to sign the bill if we would pass it up here. Unfortunately, I understand the President Clinton has chosen to retract his support for such reimbursement. That is why I call this a hypocritical White House. Under these facts and circumstances, knowing what has transpired, and knowing the hell they put these people through, not to be willing to reimburse them is just unbelievable.

I am very disappointed that the President has changed his position on this issue, because passing this legislation is the right thing to do. After being fired, the Travel Office employees were forced to seek legal representation to defend themselves against a Federal criminal investigation in which they had become targets. These public servants became the victims of unjust and inappropriate abuse of Federal law enforcement by some White House officials. I continue to be outraged by the arrogance of power demonstrated by this Administration in this matter.

The way these individuals were fired and investigated was unconscionable. Over the course of the last several months, I have worked in a bipartisan effort to get a freestanding Billy Dale reimbursement measure passed. I wanted to pass this measure months ago so that President Clinton could put this ordeal behind him. He said he would sign it. But the Senate has continued to be met with resistance by some Members on the other side of the aisle. First, my colleagues wanted to offer a GATT amendment to the proposal and then they wanted to offer a minimum wage amendment. Then we worked together to advance their objectives on both the GATT and minimum wage issues. We dealt with both of them in the Senate.

Having worked in a bipartisan manner, I thought the Senate would be able to pass a freestanding bill without any additional delays. The last time we tried to bring up this bill, the distinguished minority leader objected, stating Mr. Dale had a fee arrangement with his lawyers that would obligate him to pay only part of his bill, which, for the record, is not true. As well, we were told that some Members on the other side of the aisle had additional amendments—amendments which to this day we have not seen.

Accordingly, Senator SHELBY, the chairman of the Treasury-Postal Subcommittee took this initiative by incorporating the Dale measure in this appropriations bill. Yet, once again, this is an effort to thwart a proposal to restore Dale and his colleagues to the position they were in before being attacked by ''friends'' of President and Mrs. Clinton and their allies on the White House staff.

Mr. Dale and his Travel Office colleagues served at the pleasure of the President. Some of the employees served as many as eight different Presidents, both Republican and Democrat. They provided years of faithful service. For this service, they were fired based upon trumped up charges by political ''friends'' of the President and the First Lady. These loyal public servants were then investigated by the Federal Bureau of Investigation, the Department of Justice, and the Internal Revenue Service. The FBI was intimidated to do this by none other than Mr. KENNEDY at the White House, who no longer is there—and for good reason. Mr. Dale was subsequently indicted and prosecuted for embezzlement. On December 1, 1995, after 2½ years of being investigated by Federal agencies, as well as incurring tremendous legal expenses, Mr. Dale was found not guilty of all charges after only 2 hours of jury deliberation.

You would think our colleagues on the other side would give credibility to that and not try to retry him here in the U.S. Senate. It is unseemly. This questionable use of the Federal criminal justice system created a situation where Mr. Dale had to spend some $500,000 on attorney's fees and even consider accepting a plea agreement, when he had committed no crime, but with the express provision that he would not plead guilty to embezzlement. To make matters worse, the administration went so far as to leak, in violation of its own regulations, a confidential letter in which Mr. Dale's attorney discussed the notion of a plea agreement—something that goes on in almost every criminal case where there is a chance of resolving a case by settlement.

That is what was involved here in that matter.

Mr. Dale's attorney, on behalf of his client, offered to end the case but expressly stated that Mr. Dale would not admit that he converted or stole funds, the necessary elements for an embezzlement prosecution. Faced with the ruinous legal costs, Mr. Dale's lawyers explored the possibility of a settlement, but not as an admission of guilt. The Department of Justice's leaking of the plea agreement discussion was irresponsible. But, this administration does have a troubling record of failing to respect the privacy of individuals. The President himself unfairly repeated information derived from this unconscionable leak, suggesting that the confidential discussions of a possible plea bargain with the prosecutors in the face of his own administration's outrageous abuse of the FBI should somehow count against Mr. Dale.

Mr. Dale and his colleagues recently found themselves in the news again after trying to put the circumstances of this behind them. It was discovered that Mr. Dale's FBI background file was requested by the White House Personnel Security Office 7 months after he was fired. It now appears that the Travel Office Seven were not only fired unjustifiably but in some cases their personal background file summaries were inappropriately requested and possibly reviewed. Some think the whole 900 files that were improperly requested—and possibly reviewed; many of which were reviewed—was as a result of trying to get Billy Dale.

So the invasion of privacy that these individuals have had to endure continued, and to have to put up with these arguments here today, again I say it is unseemly.

What makes President Clinton's opposition to the reimbursement to Mr. Dale all the more astonishing is the fact that no less than 23 White House employees have requested Federal reimbursement of counsel fees in connection with congressional or independent counsel investigations into the White House Travel Office, or Whitewater. Among those who have requested reimbursement are Thomas (Mack) McLarty, George Stephanopoulos, John Podesta, Ricki Seidman, and Bruce

Lindsay —just to mention a few of the 23.

A number of these requests have been approved by the Clinton Justice Department. For instance, Mr. Podesta. I am glad they did in the case of Mr. Podesta. And the Department has said, ''We are continuing to process requests and anticipate acting on some of them in the near future.''

I ask unanimous consent that a letter to me from the Department of Justice dated September 6, and a memorandum from the Department of Justice to Lisa Kaufman, Senior Investigative Counsel of the Senate Judiciary Committee, dated September 5, be printed in the RECORD.

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

U.S. DEPARTMENT OF JUSTICE,
OFFICE OF LEGISLATIVE AFFAIRS,
Washington, DC, September 6, 1996.

Hon. ORRIN G. HATCH,
Chairman, Committee on the Judiciary, U.S. Senate.

DEAR MR. CHAIRMAN: This supplements our prior informal responses to your letter, dated August 21, 1996, which requested documents and information about recent assertions of executive privilege and requests for reimbursement of private counsel fees arising from certain congressional and Independent Counsel inquiries. We have already provided on an expedited basis the principal documents that are responsive to the first two items of your request. This letter provides further information regarding those two items, as well as information and documents regarding the remaining items. We hope that what we are providing today will be sufficient to complete our response to your request, but we would be pleased to work with Committee staff if you desire additional documents or information.

The first two items of your request seek documents and information concerning the President's two assertions of executive privilege in May 1996 in response to a subpoena issued to the White House by the House Committee on Government Reform and Oversight. This past Friday, August 30, 1996, we provided your staff copies of the submissions to the House Committee on May 9 and May 30, 1996, informing the Committee of the President's privilege assertions. The submissions include the Attorney General's two letter opinions to the President, dated May 8 and May 23, 1996, setting forth the legal basis for the assertions. These documents should provide you with a good understanding of the purpose and scope of the privilege assertions.

The first of the President's assertions of executive privilege, on May 8th, was a protective assertion of privilege over the entire group of confidential White House Counsel's Office documents being sought by House Committee at that time, to be effective only for such time as was necessary for the review and consultations required to determine whether to make a conclusive claim of privilege for particular documents. The Attorney General's May 8th letter to the President summarizes the circumstances necessitating the protective assertion:

''The subpoena covers a large volume of confidential White House Counsel's Office documents. The Counsel to the President notified the Chairman of the Committee today that he was invoking the procedures of the standing directive governing consideration of whether to assert executive privilege, President Reagan's memorandum of November 4, 1982, and that he specifically requested, pursuant to paragraph 5 of that directive, that the Committee hold its subpoena in abeyance pending a final Presidential decision on the matter. This request was necessitated by the deadline imposed by the Chairman, the volume of documents that must be specifically and individually reviewed for possible assertion of privilege, and the need under the directive to consult with the Attorney General, on the basis of that review, before presenting the matter to the President for a final determination. The Chairman rejected the request and indicated that he intends to proceed with a Committee vote on the contempt citation tomorrow.[1]

The Attorney General's letter went on to advise the President as follows:

''Based on these circumstances, it is my legal judgment that executive privilege may properly be asserted with respect to the entire set of White House Counsel's Office documents currently being withheld from the Committee, pending a final Presidential decision on the matter. This would be a protective assertion of executive privilege designed to ensure your ability to make a final decision, after consultation with the Attorney General, as to which specific documents are deserving of a conclusive claim of executive privilege.''

The Counsel to the President's letter to the Committee Chairman the following day, May 9th, informed the Committee of the President's assertion of executive privilege:

''Consistent with [the Attorney General's letter opinion], the President has directed me to inform you that he invokes executive privilege, as a protective matter, with respect to all documents in the categories identified [previously in the letter], until such time as the President, after consultation with the Attorney General, makes a final decision as to which specific documents require a claim of executive privilege. * * *

''I hereby request that your Committee hold its request in abeyance until such time as a Presidential decision as to executive privilege has been made with respect to specific, individual documents.''

The review and consultation process implemented after the May 8th protective assertion of privilege was as follows: The White House Counsel's Office conducted a specific review of all withheld documents and made an initial determination as to which particular documents should be considered further for inclusion in a conclusive assertion of privilege. Then, only the documents that the Counsel's Office had determined as a preliminary matter should be considered further for the conclusive assertion were presented to the Department for the required consultation with the Attorney General.

After this process was completed, the President made a conclusive assertion of privilege with respect to particular documents. The Counsel to the President's May 30th letter informed the Committee of the President's assertion of privilege with respect to the specified documents and also produced to the Committee the remaining documents that had been subject to the May 8th protective assertion of privilege. The Counsel's May 30th letter also enclosed the Attorney General's May 23rd letter to the President setting forth her opinion that executive privilege could properly be asserted with respect to the specified documents. Although the entirety of the letters from the Counsel to the President and the Attorney General should be reviewed in order to understand the rationale for the conclusive assertion of privilege, the essential separation of powers and confidentiality concerns underlying the claim are summarized in the following passage from the Attorney General's letter to the President:

''The Counsel to the President is appropriately concerned that the Committee's demand raises significant separation of powers concerns and that compliance with it beyond the accommodations already reached with the Committee would compromise the ability of his Office to advise and assist the President in connection with the pending Committee and Independent Counsel investigations. It would also have a chilling effect on the Office's discharge of its responsibilities in future congressional investigations, and in all of its other areas of responsibility. I agree that the ability of the White House Counsel's Office to serve the President would be significantly impaired if the confidentiality of its communications and work-product is not protected, especially where the confidential documents are prepared in order to assist the President and his staff in responding to an investigation by the entity seeking the documents. Impairing the ability of the Counsel's Office to perform its important functions for the President would in turn impair the ability of you and future Presidents to carry out your constitutional responsibilities.

''The Supreme Court has expressly (and unanimously) recognized that the Constitution gives the President the power to protect the confidentiality of White House communications. This power is rooted in the ''need for protection of communications between high Government officials and those who advise and assist them in the performance of their manifold duties.'' *United States v. Nixon.* 418 U.S. 683, 705 (1974). ''A President and those who assist him must be free to explore alternatives in the process of shaping policies and making decisions and to do so in a way many would be unwilling to express except privately.'' *Id.* at 708. Executive privilege applies to these White House Counsel's Office documents because of their deliberative nature, and because they fall within the scope of the attorney-client privilege and the work-product doctrine, *see Upjohn Co. V. United States,* 449 U.S. 383 (1981); *Hichman v. Taylor,* 329 U.S. 495 (1947). Both the attorney-client privileges and the work-product doctrine are subsumed under executive privilege.'' *See Response to Congressional Requests for Information Regarding Decisions made Under the Independent Counsel Act,* 10 Op. O.L.C. 68, 78 & n.17 (1986); *Confidentiality of the Attorney General's Communications in Counseling the President,* 6 Op. O.L.C. 481, 490 & n.17, 494 & n.24 (1982).

[1] The background for the protective assertion of privilege is described in letters from the White House to the House Committee. The subpoena issued by the House Committee in January of this year sought a large number of confidential documents held by the White House Counsel's Office. These included confidential deliberative, attorney-client and attorney work-product materials prepared by the Counsel's Office in response to ongoing congressional and independent counsel investigations, as well as other confidential materials such as the personnel files of individual employees. In February, the Counsel to the President met with the Committee Chairman seeking to negotiate an accommodation. We understand that the Counsel to the President offered the Committee at that time the opportunity to review all of the personnel files (which included Mr. Dale's file), but raised objections to making available certain deliberative, attorney-client and attorney work product materials and made an accommodation proposal with respect to these materials. The Committee Chairman agreed to consider the proposals and respond, but no response was received until May 2nd, when the Committee indicated it would vote on May 9th on whether to hold the Counsel to the President in contempt of Congress, unless all withheld documents were turned over beforehand. This one-week notice provided the White House Counsel's Office insufficient time to review all of the materials and consider, together with the Attorney General, whether assertion of executive privilege with respect to particular documents was warranted.

As for the particular focus of your inquiry, the White House Counsel's Office determined during the initial stage of the review process following the protective assertion of privilege to exclude from further consideration for the conclusive assertion of privilege the set of personnel records it had earlier called to the Committee's attention (see note 1, supra). It is our understanding that Mr. Dale's personnel file, including FBI-related material, was among these personnel records. Because of this determination by the Counsel's Office, the personnel records were not presented to the Department for review and they were among the documents the White House produced to the House Committee on May 30th. Thus, there was never an occasion for the Department to be consulted concerning the possibility of an assertion of executive privilege with respect to FBI-related material contained in Mr. Dale's personnel file. Accordingly, we have no documents responsive to your request for ''documents discussing or analyzing whether executive privilege could be asserted with respect to'' such material.

On Thursday, September 5, 1996, we provided information and three documents responsive to the third and fourth items of your request. A copy of our memorandum to Committee staff is enclosed along with an additional copy of the accompanying documents. In summary, the following FBI employees have requested representation with regard to the White House Travel Office matter: James Bourke, David Bowie, John Collingwood, Patrick Foran, Richard Hildreth, Barbara King, Peggy Larson, Sharon MacGargle, Patrick Maloy, Larry Potts, Thomas Renaghan, Therese Rodrique, Gregory Schwarz, Dennis Sculimbrene, Cecilia Woods. The requests of Bourke, Bowie, Collingwood, Foran, Larson, MacGargle, Potts, Renaghan, Schwarz, Sculimbrene, and Woods have been approved. The remaining requests have been held in abeyance because we have been advised that no congressional depositions are anticipated at this time. Enclosed are FBI records regarding these requests.

In addition, Sherry Carner and Janice George initially requested reimbursement for private counsel fees; however, the House Committee ultimately allowed them to be accompanied by FBI counsel, so their requests were withdrawn.

We have completed consultation with the White House and the Independent Counsel in accordance with established executive branch consultation practices and, hence, we are providing the following additional information regarding the fourth and fifth items of your request: The following White House employees requested reimbursement of counsel fees in connection with congressional or Independent Counsel investigations about the White House Travel Office or Whitewater: Mary Beck, Lisa Caputo, Nelson Cunningham, Jonathan Denbo, Nell Doering, Charles Easley, Dwight Holden, Carolyn Huber, Ed Hughes, Bruce Lindsay, Kelli McClure, Thomas McLarty, Douglas Matties, DeeDee Myers, Beth Nolan, Bruce Overton, John Podesta, Ashley Raines, Ricki Seidman, Clifford Sloan, George Stephanopoulos, Kathleen Whalen, Jonathan Yarowsky. The requests of Beck, Holden, Podesta, and Yarowsky have been approved. The remainder are pending, but we are continuing to process requests and anticipate acting on some of them in the near future.

With regard to the fifth item of your request, the Department of Justice has paid no fees to date in connection with these matters. The Department has agreed to pay private counsel fees as indicated in our September 5th memorandum to Committee staff in accordance with the enclosed sample retention agreement.

I hope that this information is helpful. Please do not hesitate to contact me if we can provide additional assistance regarding this or any other matter.

Sincerely,

ANDREW FOIS,
Assistant Attorney General.

U.S. DEPARTMENT OF JUSTICE,
OFFICE OF LEGISLATIVE AFFAIRS,
Washington, DC, September 5, 1996.

To: Lisa Kaufman, Senior Investigative Counsel, Senate Judiciary Committee; Karen Robb, Minority Staff Director, Senate Judiciary Committee.

From: Faith Burton, Special Counsel, Office of Legislative Affairs.

Re: Chairman Hatch's Letter of August 21, 1996.

This is to provide information on an expedited basis in response to Lisa's request in connection with Chairman Hatch's August 21, 1996, letter regarding requests for government reimbursement of private counsel. This information, and three enclosed documents, respond to the third and fourth items of the letter.

The following FBI employees have requested representation with regard to congressional inquiries regarding the White House Travel Office matter: James Bourke, David Bowie, John Collingwood, Patrick Foran, Richard Hildreth, Barbara King, Peggy Larson, Sharon MacGargle, Patrick Maloy, Larry Potts, Thomas Renaghan, Therese Rodrique, Gregory Schwarz, Dennis Sculimbrene, Cecilia Woods. The requests of Bourke, Bowie, Collingwood, Foran, Larson, MacGargle, Potts, Renaghan, Schwarz, Sculimbrene, and Woods have been approved. The remaining requests have been held in abeyance because we have been advised that no congressional depositions are anticipated at this time.

In addition, Sherry Carner and Janice George initially requested reimbursement for private counsel fees; however, the House Committee ultimately allowed them to be accompanied by FBI counsel, so their requests were withdrawn.

Please contact me at 514–1653 if you have any questions about this information. We are working on a more complete response to the Chairman's letter and will get it to you as soon as possible.

CONDITIONS OF PRIVATE COUNSEL RETENTION BY THE DEPARTMENT OF JUSTICE FOR REPRESENTATION OF CURRENT AND FORMER FEDERAL EMPLOYEES

The following items and conditions shall apply to the retention of a private attorney's legal services by the Department of Justice to represent current and former federal employees in civil, congressional, or criminal proceedings.

NATURE OF RETENTION

Subject to the availability of funds, the Department of Justice agrees to pay an attorney, or other members of his or her firm, for those legal services reasonably necessitated by the defense of a current or former federal employee (hereinafter ''client'') in civil, congressional, or criminal proceedings.

The Department will not honor bills for services that the Department determines were not directly related to the defense of issues presented by such matters. Examples of services for which the Department will not pay include, but are not limited to:

a. administrative claims, civil actions, or any indemnification proceedings against the United States on behalf of the client for any adverse monetary judgment, whether before or after the entry of such an adverse judgment;

b. cross claims against do-defendants or counterclaims against plaintiff, unless the Department of Justice determines in advance of its filing that a counterclaim is essential to the defense of the employee and the employee agrees that any recovery on the counterclaim will be paid to the United States as a reimbursement for the costs of the defense of the employee;

c. requests made under the Freedom of Information or Privacy Acts or civil suits against the United States under the Freedom of Information or Privacy Acts, or on any other basis, to secure documents for use in the defense of the client;

d. any legal work that advances only the individual interests of the employee; and

e. certain administrative expenses noted in paragraph number 4 below.

The retained attorney is free to undertake such actions as set for the above, but must negotiate any charges with the client and may not pass those charges on to the Department of Justice.

The above list is not exhaustive. The Department of Justice will not reimburse services deemed reasonably necessary to the defense of an employee if they are not in the interests of the United States.

To avoid confusion over whether the retained attorney may bill the Department for a particular service under this retention agreement, the retained attorney should consult the Justice Department attorney assigned to the case, mentioned in the accompanying letter before undertaking the service.

BILLABLE HOURS

The Department of Justice agrees to pay the retained attorney for any amount of time not exceeding 120 billable hours per month for services performed in the defense of the client. The retained attorney may use the services of any number of attorneys, paralegals, or legal assistants in his or her firm so long as the aggregate number of billable hours in any given month does not exceed 120 hours. The client is free, however, to retain the attorney, or members of the firm, to perform work in excess of 120 hours per month so long as the firm does not bill the excess charge to the Department of Justice.

The Department will consider paying for services in excess of 120 hours in any given month if the press of litigation (e.g., trial preparation) clearly necessitates the expenditure of more time. The retained attorney must make requests for additional compensation to the Department in writing in advance of such expenditures.

LEGAL FEES

The Department agrees to pay the retained attorney up to $99.00 per lawyer hour, plus expenses as described in paragraph 4 below. The charge for any services should not exceed the retained attorney's ordinary and customary charge for such services. This fee is based on the consideration that the retained attorney has been practicing law in excess of 5 years.

In the event the retained attorney uses the services of other lawyers in his or her firm, or the services of a paralegal or legal assistant, the Department agrees to pay the following fees.

a. Lawyer with more than 5 years practicing experience: $99.00 per lawyer hour

b. Lawyer with 3—5 years of practicing experience: $79.00 per lawyer hour

c. Lawyer with 0—3 years of practicing experience: $66.00 per lawyer hour

d. Paralegal or legal assistant: $39.00 per hour.

The Department of Justice periodically reviews the hourly rates paid to attorneys retained to defend federal employees under 28 C.F.R. §50.16. If, during the period of this agreement, the Department revises the

schedule of hourly rates payable in such cases, the Department will pay revised rates for services rendered after the effective date of the revision in rates.

EXPENSES

While the Department will pay normal overhead expenses actually incurred (e.g., postage, telephone tolls, travel, transcripts), the retained attorney must itemize these charges. The Department will not accept for payment a bill that shows only a standard fee or percentage as ''overhead''. The retained attorney must describe, justify, and clear IN ADVANCE unusual or exceptionally high expenses.

In addition, the retained attorney must describe, justify, and clear in advance any consultations with or retention of experts or expert witnesses.

The retained attorney must secure advance approval to use computer-assisted research that involves charges in excess of $250.00 in a given month.

The retained attorney must separately justify and obtain advance approval for services such as printing, graphic reproduction, or preparation of demonstrative evidence or explanatory exhibits.

The retained attorney must itemize and justify in-house copying costs exceeding $125.00 in a given month. The Department will pay the per page copying cost at the government rate set forth at 28 C.F.R. § 16.10(2).

The retained attorney must itemize and justify facsimile transmission costs exceeding $150.00 in a given month.

The Department will pay expenses such as secretarial overtime or the purchase of books only in exceptional situations. The retained attorney must obtain advance approval for such expenditures.

Travel expenses may not include first class service or deluxe accommodations. The retained attorney may not bill time spent in travel unless it is used to accomplish tasks related to the litigation. The retained attorney must specifically identify such tasks.

The Department will not pay for meal charges not related to out-of-town travel.

The Department will not provide compensation for client or other entertainment.

The Department will not pay expenses for meals incidental to overtime.

The Department will not pay for expenses that can normally be absorbed as clerical overhead, such as time spent in preparing legal bills and filing papers with the Court. The retained attorney must separately list and justify messenger services.

The retained attorney must enumerate the expenses incurred for hiring local counsel by rate, hour, and kind of service. These hours must fall within the 120-hour monthly maximum. The hourly rates paid to local counsel may not exceed the rates listed in paragraph 3 above.

FORMAT OF BILLS

The retained attorney must submit bills on a monthly basis, stating the date of each service performed; the name of the attorney or legal assistant performing the service; a description of the service; and the time in tenths, sixths, or quarters of an hour, required to perform the service. Because of the limitation on reimbursable hours, a bill must include all services rendered in a given month. The Department will not consider subsequent bills for services rendered in a month for which it has already received a bill.

In describing the nature of the service performed, the itemization must reflect each litigation activity for which reimbursement is claimed.

The retained attorney must attach copies of airline tickets, hotel bills, and bills for deposition and hearing transcripts to the billing statement.

The retained attorney must itemize local mileage costs (e.g., purpose of travel and number of miles). The Department will pay the standard government cost per mile rate for the use of privately owned vehicles.

Before the Department of Justice will pay a bill, Department attorneys with substantive knowledge of the litigation will review it. If the retained attorney believes that the detail of the legal bill would compromise litigation tactics if disclosed to Department attorneys assigned to the case, the retained attorney should list those particular billing items on a separate sheet of paper with an indication of the specific concern. Department attorneys uninvolved with this case will independently review the separated, sensitive portion of the bill solely to determine if payment is appropriate under applicable standards.

The individuals reviewing the bills will not discuss these items with the Department of Justice attorneys having responsibility for the case, nor will those responsible attorneys review the items in question.

After Department attorneys complete the review of a bill, the Department will notify the billing counsel if the Department deems any item or items nonreimbursable or if any item or items require further explanation. When further information or explanation is needed, the Department will hold the entire bill until the retained attorney responds. Only after the Department receives and reviews the response will the Department certify the bill in whole or in part for payment. For that reason, the retained attorney must respond promptly.

Should the Department determine that any items are not reimbursable under this agreement, the billing counsel may request further review of the Department's determination. The retained attorney shall make such a written request to the appropriate Branch director at the address indicated in the forwarding letter. The billing counsel must submit such requests for further review within 30 days, unless additional time is specifically requested and approved. Thereafter, the Department will not reconsider its determination.

BILLING ADDRESS

The retained attorney should submit all bills to:

Director, Office of Planning, Budget and Evaluation, Civil Division, United States Department of Justice, Washington, D.C. 20530, Attn: Room 7038 Todd Building.

PROMPT PAYMENT

The Prompt Payment Act is applicable to payments under this agreement and requires the payment of interest on overdue payments. Determinations of interest due will be made in accordance with provisions of the Prompt Payment Act and Office of Management and Budget Circular A–125.

GAO REVIEW

Periodically, the Department of Justice may ask the retained attorney to submit copies of the time sheets to the General Accounting Office (GAO) for purposes of auditing the accuracy of corresponding monthly bills, copies of which the Department will forward directly to GAO.

TERMINATION

The Department of Justice reserves the right to terminate its retention agreement with the retained attorney at any time for reasons set forth in 28 C.F.R. § 50.16.

ACCEPTANCE

I agree that my retention by the Department of Justice to represent John Yarowsky in connection with the House Committee on Government Reform and Oversight's Investigation of the White House Travel Office matter will be in accordance with the applicable statutes, regulations, and the foregoing terms and conditions. This written instrument, together with the applicable statutes and regulations, represents the entire agreement between the Department of Justice and the undersigned, any past or future oral agreements notwithstanding.

Mr. HATCH. Mr. President, here we have the Clinton administration quietly approving reimbursement of legal expenses for its people at a time when President Clinton opposes giving Mr. Dale a ''special preference.'' That was said by the President in his Rose Garden conference of August 1, 1996. It was hypocritically said by the President under these circumstances.

The reimbursement of the legal fees of Billy Dale, and other hard-working, honest civil servants wrongly fired from the White House Travel Office, will right the wrong of an overreaching executive branch. You would think they would want to get this mess behind them. But, no. They come here and besmirch representatives of the other side. These people have been through hell enough. It is unseemly.

This provision is also an attempt, I might add, to make the Travel Office Seven whole at least financially by providing for their attorney's fees. My colleagues on the other side are willing to let the others get reimbursed their attorney's fees because they do not amount to much. They are also, I am sure, in support of reimbursing the 23 White House employees their attorney's fees, but not Mr. Dale.

I believe reimbursing Mr. Dale and all of the Travel Office employees is the least we can do after all that they have been through.

I urge my colleagues on the other side of the aisle not to hold up this measure any longer—no more excuses, no more delays. Let us get this legislation passed today and put an end to it once and for all.

I appreciate the Clinton administration's desire to cover the legal fees of those who have been loyal to the President, and I want to point out that a mechanism exists for the Department of Justice to consider doing so, too. That is OK. Mr. Dale is not so fortunate. He also was loyal to a number of Presidents, including this one. But his reward is to be put through an unseemly, vicious, miserable, costly criminal indictment and trial.

To indict somebody, all you have to show is reasonable suspicion. To convict them, you have to show guilt beyond a reasonable doubt. And that is where the White House, the Justice Department, and the prosecutors failed. And they rightly failed, because Mr. Dale was not guilty.

As I noted, the Clinton White House staff is certainly availing themselves of the current avenues for reimbursement. But for the Clinton administration to oppose the reimbursement of Mr. Dale's legal fees at the same time White House staff are seeking reimbursement through the Department of

Justice is transparent. It is inconsistent, to say the least. And I might add it is hypocritical. It is hypocritical. And it is amazing to me that the people at the White House don't have the guts to admit it and just say, ''Let us do what is right here.''

To me there isn't any question. They can't show any wrongdoing by Billy Dale. To try to besmirch him on the Senate floor in a double-jeopardy type of situation by bringing up what you think is one side of the case facts after a jury of his peers acquitted him, I have to tell you, it is unseemly. Moreover, anybody would consider a guilty plea to something that does not amount to very much if they could get a load of hundreds of thousands of dollars of additional legal fees off their backs. Anybody would do that. To suggest otherwise is just not right. Time after time, I have seen defendants consider plea agreements in unjust prosecutions, and this was one of them.

This provision provides for payment of the legal expenses incurred by Billy Dale, Barney Brasseaux, John Dreylinger, Ralph Maughan, John McSweeney, and Gary Wright incurred after being terminated in May 1993, amid false allegations made by President Clinton's political cronies.

Although Mr. Dale suffered the greatest financial loss, half a million dollars, the remaining six employees collectively incurred about $200,000 in their own defense. The appropriations bill for the Department of Transportation for fiscal 1994 provided approximately $150,000 in reimbursement of legal fees. This provision would provide the balance.

This provision would not provide for compensation of all expenses associated with the investigation into the Travel Office matter, such as legal costs incurred in preparation for appearing before Congress. But it would provide for attorneys' fees and costs that resulted from these seven men defending themselves against criminal charges.

The Travel Office employees will have 120 days after this legislation is enacted to submit verification of valid legal expenses.

Reimbursement is limited up to $500,000, and does not include fees associated with appearances before or in preparation of congressional investigations or hearings.

After the former Travel Office employees were fired due to charges of financial irregularities by political profiteers, they were investigated by the Federal Bureau of Investigation, the Department of Justice, and the Internal Revenue Service. Mr. Dale was subsequently indicted and tried as a result of the investigation and after incurring a tremendous legal debt for his defense, Mr. Dale was acquitted on all charges. The other Travel Office employees also incurred legal expenses for their own defenses.

None of these former Travel Office employees held high-level positions in the administration. Many of them had worked for both Democratic and Republican Presidents. Were it not for their positions as employees of the Federal Government, and because they found themselves in the unfortunate position of having jobs coveted by friends of the Clintons, they would not have been subject to a Federal criminal investigation.

The legal fees placed on these middle-class public servants have been astronomical. The monetary damage they sustained is quantifiable. This provision will not cover the emotional damage of this abuse of power by the Clinton administration. Nor will it return to these faithful Government employees their reputations or faith in the Government they had served. It merely covers the attorneys' fees and costs associated with the criminal investigation.

According to Attorney General Reno, the White House has the authority to seek representation from the Department of Justice for Government employees who have been called to testify regarding matters within the scope of their employment. Customarily, representation of these employees is handled by attorneys for the agency for which the employee works. There are instances however, in which it would be inappropriate for agency attorneys to represent employees of the agency. In these cases, the Department of Justice has authority to provide reimbursement for the fees associated with retaining private counsel. With respect to the Travel Office and FBI files and Whitewater investigations, 23 White House employees have requested reimbursement for the legal fees of their private attorneys.

Should a White House employee want to receive reimbursement for their legal fees for their cooperation in providing testimony, there is a relatively simple procedure they must follow. First, all bills for legal fees for private counsel must be submitted to the White House Counsel's Office. This information is then forwarded to the Civil Division of the Justice Department with a written recommendation as to the merit of the request. The Department will then, either approve or deny the request consistent with their own guidelines. That is the extent of it.

As I stated previously, 23 White House employees have requested Federal reimbursement of counsel fees in connection with congressional or independent counsel investigations into the White House Travel Office or Whitewater. A number of these requests have been approved by the Clinton Justice Department, and the Department has said: ''we are continuing to process requests and anticipate acting on some of them in the near future.''

Today, I am not addressing whether the reimbursement of legal fees for individuals appearing before Congress is appropriate or not. In fact, if the law permits it, I have no objection to employees of the White House seeking reimbursement. My point in raising the issue at all is to expose the hypocrisy of the Clinton administration. The Clinton White House victimized Billy Dale and his colleagues which lead to the political prosecution of Mr. Dale leaving him with $500,000 in legal fees. Even the White House has admitted it improperly handled the White House Travel Office matter. In fact, a document produced to the Senate Judiciary Committee from the White House, which appears to be talking points for a meeting with the House Democratic Caucus, states the following, ''You all may dimly remember the Travel Office affair: in which a number of White House staff—many immature and self-promoting—took impulsive and foolhardy actions to root out problems at the beginning of the Clinton administration and to then gallantly recommend that they take over its operation.'' Now, the White House has the chutspah to authorize the payment of fees to its people and not to Billy Dale. I find this astonishing.

In a press conference on November 16, 1995, months after the Travel Office employees had been fired, President Clinton told the American public that he regretted the hardship that Mr. Dale and his colleagues had endured because of their abrupt firings. He also said that it appeared the White House did not handle the Travel Office dismissals appropriately. This was, in my opinion, a genuine attempt by the President to take responsibility for what happened to these loyal Government employees.

Then on January 30, 1996, White House spokesman Mr. McCurry stated, ''Yes, and he would sign it'', referring to Mr. Clinton's intent to sign this measure. Again, just prior to the recent press conference in the Rose Garden on August 1, 1996, White House Press Secretary, Mr. Toiv, reaffirmed that President Clinton would sign legislation to reimburse the former Travel Office employees. He stated, and I quote, ''I would just repeat that when the bill arrives on the President's desk, he would sign it.''

Despite the administration's previous position, the President said at the August 1, 1996, press conference in response to a question regarding whether he would keep his word and sign this bill, ''I didn't—I never gave my word on that''. He then stated that an error had been made by his spokesman, ''I have made it clear to Mr. McCurry what my position is on this. And if an error was made by my spokesman, I'm sorry, but I have not broken my word to anybody.''

After President Clinton's apparent U-turn on this issue, in an interview with CNN on August 26, 1996, President Clinton took the extraordinary step to state that individuals serving in his administration have been ruined by pure, naked, raw politics''. He then went on to say that he would pursue every avenue, including raising money himself, to pay for the legal expenses of his

aides. He then continued to say in reference to his aides, ''Do I feel terrible about the completely innocent middle-class people who have been wrecked financially by this? I certainly do. But I didn't abuse them. And it's high time that the people who abuse have to take responsibility for what they do''.

I must admit that I am disappointed and shocked by the steps that this administration has taken to smear the Travel Office employees. The President's recent comments are in direct contradiction to his previous statements expressing concern for the former Travel Office employees. He is willing to assist his aides, and criticize the Congress for pursuing an investigation into wrongdoing by his administration, but will not accept responsibility for the wrongful treatment of Billy Dale? Give me a break.

In the embarrassment of having lost a case so blatantly politically motivated, individuals within the Department of Justice chose to leak a document revealing that Mr. Dale considered accepting a plea bargain. Notably, as the Justice Department is fully aware, and is articulated in their own regulations, information regarding plea negotiations is confidential, not for public dissemination. I can only sympathize with Mr. Dale, who after years of constant invasion of his and his family's privacy, and incurring enormous expenses, considered a settlement in the hopes of ending this nightmare. Some of my colleagues have suggested that Mr. Dale admitted his culpability by considering a plea agreement. So too, has President Clinton, a former State attorney general and law professor. Now, we have a ''Dear Colleague'' letter distributed yesterday which also disseminates this confidential information. The facts are, however, that Mr. Dale never agreed to admit to committing the essential elements necessary for an embezzlement prosecution. He simply agreed to settle the case without an admission of guilt. Any suggestion that such a strategic tactic equates to an admission of guilt is outrageous and is yet just a further attempt to smear Mr. Dale's reputation.

Department of Justice guidelines specifically state that information which ''tends to create dangers of prejudice without serving a significant law enforcement function,'' should not be released to the public. The disclosure of a plea agreement clearly fits within this definition. It is troubling to me that the Department of Justice, The President, and some of my colleagues in the Senate continue to ignore this.

Whitewater is the investigation of the possibility of the Clintons using their political positions for personal gain in a virtually risk-free investment, and then, engaging in damage control activities. There has been no credible allegation that the Government somehow abused the Whitewater participants. By contrast, the Travelgate investigation is a case of sheer and utter abuse by the executive branch. By politicizing the Department of Justice and the FBI, the administration literally ruined the livelihood and reputation of seven hard-working civil servants.

I believe a distinction should be made between reimbursement of fees for appearances before Congress and those involving the misuse of the judicial system for purely political purposes. This provision does not allow payment of legal fees in connection with any appearance before Congress. Accordingly, within the parameters of the provision, Whitewater witnesses could not be reimbursed. Appearing before Congress simply would not be covered by this provision.

Unlike Travelgate, however, the Whitewater matter has not been completed. Many questions have been left unanswered in the Whitewater investigation and an Independent Counsel is still trying to determine whether or not there have been any criminal violations. Any perpetrators of a coverup must be brought to justice. Let us not forget it was just this past January when Rose law firm billing records mysteriously surfaced within the residence of the White House. Individuals with access to this area of the White House must be questioned to find the truth. The American people deserve no less.

Unlike the witnesses in the Whitewater hearings, these former employees of the White House Travel Office were targeted by the Office of the President. They were victims of an administration that politicized the Department of Justice and the FBI. In contrast, the Whitewater witnesses have not been subjected to such persecution, and were questioned in the hope of shedding light on the details of the Clinton's investment. These witnesses certainly had information pertinent to the investigation, but they were not the target of the investigation. The individuals in the Travel Office matter were victimized not because they happened to come into contact with an investigation as many ordinary citizens could and is clearly the case with the Whitewater witnesses, but because they held positions in the Government that allowed them to become the subject of an investigative probe. I think this provision affirms that it is appropriate to compensate these people who have been put to such expense under these special circumstances.

Moreover, the victims in the Travelgate matter are clear and identifiable. Mr. Dale and the six other former employees of the White House Travel Office had their reputations marred by the Clinton administration. They endured investigations by the FBI, the IRS, the Department of Justice, as well as that of Peat Marwick. Their families were placed under the strain of having been investigated for 2½ years, all without a single proven instance of wrong-doing on the part of the Travel Office employees.

Mr. President, those on the other side have indicated that this bill which reimburses Billy Dale is unprecedented. I would like to point out that the House passed this bill with overwhelming bipartisan support, and, despite the bipartisan support of the House, some of my colleagues on the other side of the aisle in this Chamber oppose this provision stating it sets a bad precedent.

Let me just quickly quote Congressman BARNEY FRANK, a well-respected Democrat, a memorandum of the Judiciary Committee over there, a person with whom I work on the Judiciary Committee in the Senate as well about this very issue. He said, ''This neither sets a precedent nor precludes someone. Any new case will be judged on the same merits.''

I agree with Congressman FRANK. After all, Congress is not bound by the actions of another Congress.

I might also add that in the Transportation appropriations bill for fiscal year 1995, five of the Travel Office Seven had some of their legal expenses reimbursed. Since receiving reimbursement for their legal expenses at that time, these individuals have incurred more legal debt. Not included in the fiscal year 1995 Transportation appropriations bill were the legal expenses of Billy Dale. The provisions of this bill allow reimbursement for these additional fees, and for Mr. Dale.

When the Transportation appropriations bill was passed, no one made a fuss. These individuals were reimbursed, as they deserved to be. Billy Dale deserves the same treatment. After all, he was sacked just like all the others, sacked unjustly.

I have heard arguments that if we are to reimburse Billy Dale even after being indicted, the floodgates would be opened, and we would be obligated to reimburse anyone who was investigated by the Federal Government and found innocent of all charges.

I do not believe that is the case, nor do I believe that this White House or any White House in the future is going to do the outrageous smearing that occurred in this case. This is a unique case that involved the executive branch at the highest level doing this to decent, honorable, honest people who have been vindicated by the courts of law.

As we are all aware, Congress can decide the merits of all claims on a case-by-case basis. By passing this provision, we are not setting a precedent as is done in a court of law. We are simply passing a judgment based on the circumstances of this case that the firing of the Travel Office Seven was unjust and the manner by which they were investigated was inappropriate and unwarranted.

The Administration erred in the way they dealt with the Travel Office situation. By reimbursing the legal expenses of Billy Dale and his colleagues, Congress would be taking a step to correct the administration's error in judgment.

Now, reimbursing legal expenses is not wholly unprecedented, I might add. Although the circumstances are somewhat different, Hamilton Jordan is an example of someone who, in my opinion, was unfairly investigated after being accused of cocaine use. After an independent counsel was appointed and all the evidence gathered, Mr. Jordan was cleared of all charges. Congress then decided to reimburse Mr. Jordan's legal fees because the charges lodged against him were found to be baseless.

Because unjust situations sometimes arise, the independent counsel statutes have provisions designed to rectify these grievances. Why can't my colleagues treat this matter as decently as those of us who were then in the Senate treated Hamilton Jordan? Why is it we have to go through this? Would it not be in the best interests of the President to put this behind us?

The White House was able to bring the power of Federal law enforcement to bear on the Travel Office employees, and the facts show that they did it improperly for purposes of greed.

In response to the claim that such a payment is unprecedented, I say that the circumstances by which Billy Dale and the others were fired is unprecedented, and it should be treated as such. We are not talking about some low-level bureaucrat in the halls of the bureaucracies of this city. We are talking about right in the halls of the upper levels of the White House itself where this injustice was perpetrated. The circumstances by which Mr. Billy Dale and the others were prosecuted and were investigated and charged and targeted, and prosecuted in Dale's case, were unprecedented.

This is a meritorious case for reimbursement. It is as meritorious as any I have ever seen. What was done to these people never should have occurred in this manner. House Republicans and House Democrats recognize this fact. There was not an attempt to indict him all over, convict him again after a jury acquitted him, or go through the facts in a further attempt to smear Mr. Dale. The fact is, the media knew he was honest, and everybody else knew he was honest, and, above all, a jury of his peers found him to be honest. What was done to these people should not have been done.

We had bipartisan passage in the House—we ought to have that here. I think everyone in this body recognizes that fact. If we in Congress are to reimburse legal fees on a case-by-case basis when the case merits it, as this one does, then it is the right thing to do, and I have never, never seen a case more worthy than this one that could come before the Senate. I can tell some other injustices that were certainly terrible that should be straightened out, too, but nothing like this.

It has also been suggested by my colleagues on the other side of the aisle that H.R. 2937 is a private relief bill, and typically these bills are referred to the Court of Claims for factfinding. First, I would like to point out that H.R. 2937 is not a private relief bill. This bill was passed through the House on the Suspension Calendar, which handles public bills. There is a separate calendar that deals with private relief bills. The CONGRESSIONAL RECORD reflects the fact that H.R. 2937 was on a public bill calendar, and there was a rollcall vote when it finally passed earlier this year.

Second, a private relief bill must name all those making a claim. H.R. 2937 does not name the former Travel Office employees specifically. Even if H.R. 2937 was a private relief bill, however, congressional referrals are typically made to the Court of Claims only if the facts of the claim are complicated and unclear.

In this case, numerous reports as well as 2 years' worth of investigations and House hearings have exposed the facts in this case. The facts are very clear, and there is very little dispute to what occurred. Additionally, the only other reason to refer the matter to the Claims Court would be if there was a dispute as to the amount of money that is being claimed.

Once again, Mr. Dale and his former colleagues submitted their bills to the House Judiciary Committee, and those amounts were included in the House bill. There is no dispute about the bills that have been submitted. In short, there is no reason why my colleagues should want to remove this language from the Treasury-Postal bill on the basis that the facts are unclear. We in this body and the administration know what the facts are and we know where the blame lies.

Mr. President, I hope our colleagues will vote to support the Hatch amendment and will vote to turn down this attempt to throw this matter into the Court of Claims. There is nothing in dispute here. I think everybody who is fair will acknowledge that.

Might I ask, how much of my time remains?

The PRESIDING OFFICER. The Senator has 20 minutes and 35 seconds remaining.

Mr. HATCH. I reserve the remainder of my time.

AMENDMENT NO. 5257, AS MODIFIED

Mr. HATCH. Mr. President, if I could, pursuant to the UC, I send a modified amendment to the desk.

The PRESIDING OFFICER. The Senator has that right.

The amendment (No. 5257), as modified, is as follows:

At the appropriate place, insert the following:

SEC. . (a) REIMBURSEMENT OF CERTAIN ATTORNEY FEES AND COSTS.—

(1) IN GENERAL.—The Secretary of the Treasury shall pay from amounts appropriated in title I of this Act under the heading, ''Departmental Offices, Salaries and Expenses'', up to $499,999 to reimburse former employees of the White House Travel office whose employment in that office was terminated on May 19, 1993, for any attorney fees and costs they incurred with respect to that termination.

(2) VERIFICATION REQUIRED.—The Secretary shall pay an individual in full under paragraph (1) upon submission by the individual of documentation verifying the attorney fees and costs.

(3) NO INFERENCE OF LIABILITY.—Liability of the United States shall not be inferred from enactment of or payment under this subsection.

(b) LIMITATION ON FILING OF CLAIMS.—The Secretary of the Treasury shall not pay any claim filed under this section that is filed later than 120 days after the date of the enactment of this Act.

(c) LIMITATION.—Payments under subsection (a) shall not include attorney fees or costs incurred with respect to any Congressional hearing or investigation into the termination of employment of the former employees of the White House Travel Office.

(d) REDUCTION.—The amount paid pursuant to this section to an individual for attorney fees and costs described in subsection (a) shall be reduced by any amount received before the date of the enactment of this Act, without obligation for repayment by the individual, for payment of such attorney fees and costs (including any amount received from the funds appropriated for the individual in the matter relating to the ''Office of the General Counsel'' under the heading ''Office of the Secretary'' in title I of the Department of Transportation and Related Agencies Appropriations Act, 1994).

(c) PAYMENT IN FULL SETTLEMENT OF CLAIMS AGAINST THE UNITED STATES.—Payment under this section, when accepted by an individual described in subsection (a), shall be in full satisfaction of all claims of, or on behalf of, the individual against the United States that arose out of the termination of the White House Travel Office employment of that individual on May 19, 1993.

SEC. 529. None of the funds made available in this Act may be used by the Executive Office of the President to request from the Federal Bureau of Investigation any official background investigation report on any individual, except when it is made known to the Federal official having authority to obligate or expend such funds that——

(1) such individual has given his or her express written consent for such request not more than 6 months prior to the date of such request and during the same presidential administration; or

(2) such request is required due to extraordinary circumstances involving national security.

The PRESIDING OFFICER. The majority manager of the bill is recognized.

Mr. SHELBY. Mr. President, the subcommittee has included the $500,000 for the reimbursement of the Travel Office employees terminated by the White House in May 1993. And why? I want to explain that briefly.

Over 3 years later, we are attempting to offset the cost of the tremendous legal fees that these individuals, I believe, were wrongfully forced to assume. The provision here would pay the attorney's fees and costs they incurred with respect to that termination.

Why do we need this legislation? In October 1993, as part of the fiscal year 1994 transportation appropriations bill, the Congress authorized the payment of $150,000 for the legal bills of the five White House Travel Office employees who, after being summarily fired, were placed on administrative leave and

later transferred to other Federal agencies. This sum, $150,000, was insufficient to completely cover the legal costs of the five employees and did not address the attorney's fees of the other two fired Travel Office employees because they were still under investigation. Both employees have since been exonerated of any wrongdoing, and I believe they deserve similar reimbursement for the extraordinary and unnecessary legal expenses they were required to incur. Mr. Dale's attorneys' costs alone are close to half a million dollars.

This is a unique case, to say the least. Each claim against the United States should be judged on a case-by-case basis, and it is not the intent of this provision in this bill to set a precedent that in every case the payment of attorney's fees and costs is justified.

What is the justification of the attorney's fees here? I believe the firing of the White House employees, and especially Mr. Dale, was one of the most appalling abuses of power that I have ever seen, because I think it shows what little regard the White House has had for the plight of these loyal, dedicated public servants and their families.

And it was totally unnecessary, which makes it even worse. The White House could have fired the Travel Office without as much as a whimper. And yet, the White House felt compelled to devise a strategy that would blunt the claims of nepotism and political motivation that would certainly follow replacing a nonpartisan, career Travel office with Little Rock business associates, friends and relatives.

Now, after several years of investigation that has sometimes raised issues of constitutional dimension—claims of executive privilege, contempt citations—the facts make clear that:

No. 1, a concerted effort was undertaken in the White House and by close friends and associates of the President and First Lady to take over the Travel Office.

No. 2, it was not sufficient to simply fire the career civil servants serving in the Office, which it was the prerogative of the White House to do. Instead, White House staff colluded to raise false claims of criminal wrongdoing against the Travel Office staff to justify what was purely a political move to benefit friends and associates of the President and First Lady.

No. 3, the White House improperly used the FBI to initiate a criminal investigation against the White House Travel staff based solely on the allegations of the President's cousin, Catherine Cornelius, who admittedly intended to run the White House Travel Office once the career employees were ousted.

No. 4, the White House publicly made allegations of criminal wrongdoing and financial mismanagement before an accounting audit was ever completed on the Travel Office.

No. 5, the seven long-time career employees were never given an opportunity to respond to the allegations or answer the accusations made against them—they were given minutes notice of their termination, and almost immediately escorted off the White House premises by, none other than Craig Livingstone, the head of White House Personnel Security.

No. 6, the GAO found in its May 1994 report that while senior White House officials said the terminations were based on ''findings of serious financial management weaknesses, we noted that individuals who had personal and business interests in the Travel Office created the momentum and ultimately led to the examination of the Travel Office operations.''

No. 7, the GAO also agreed with the White House's own Management Review of the Travel Office affair that ''the public acknowledgment of the criminal investigation had the effect of tarnishing the employees' reputations, and the existence of the criminal investigation caused the employees to retain legal counsel, reportedly at considerable expense.''

I am saddened to see that the President went back on his commitment to support reimbursing the Travel Office employees. In January of this year, Mike McCurry, the President's spokesman and Press Secretary made it clear that the President was not only sorry for the treatment of Mr. Dale and his colleagues, but that he would sign a bill to reimburse them for their legal costs.

It appears now that the President intends to make a political statement out of their misfortune. Upset with congressional investigations into Whitewater and the Travelgate matter itself, he now intends to hold these long-time career employees hostage to his political posturing.

It was not enough that they were used as an excuse to give his friends and relatives Government jobs.

It was not enough that these employees were accused of criminal conduct without a shred of evidence, other than the allegations of a 24-year-old relative.

It was not enough that these employees were subject to IRS audits, that their FBI files were improperly requested as late as seven months after they were fired. Recall that it was Craig Livingstone who escorted the Travel Office employees out of the White House in May of 1993. We are now supposed to believe that he was not aware that Billy Dale was not working in the White House when his own office requested Mr. Dale's FBI file 7 months later in December of that year?

It was not enough that Mr. Dale was acquitted after only 2 hours of deliberation by the jury. Two hours. The man was acquitted. And what was the White House response? What was the President's personal lawyer doing on all the morning talk shows? He accused Mr. Dale of accepting a plea bargain. Talk about insult to injury.

This decent, loyal employee is set-up by the White House, and then when he is acquitted in a court of law by a jury of his peers, the President's personal attorney gets on national television and implies that Mr. Dale is a criminal that tried to get off easy.

Why is the White House so intent on destroying Billy Dale?

The White House has every reason to be embarrassed by their actions, every reason to want to avoid talking about Billy Dale—but it is an absolute outrage, that the President of the United States would seek to use this man as a foil for his own political gain. It is wrong. It is unjust. It is unkind, uncharitable, and indecent.

The Senators' amendment, Senators REID and LEVIN, is, therefore, misplaced and I urge my colleagues to vote against it.

I yield the floor.

The PRESIDING OFFICER. Who seeks recognition?

Mr. REID. Mr. President, it is my understanding the minority leader wishes to speak at this time. I suggest the absence of a quorum and indicate the time not run that is left for the Senator from Utah and the Senators from Michigan and Nevada. He should be here momentarily.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. DASCHLE. Mr. President, I am dumbfounded that we are tonight debating whether or not we should, for the first time in history, pay the attorney's fees for an individual who was properly indicted and properly prosecuted. Is the U.S. Congress going to start reimbursing every Federal defendant who is acquitted? If the answer is no, then I must question why are we being asked to do so in this case. There is no argument about reimbursing fees for those who are not indicted. The only argument is about paying the fees for one individual who was, again, properly indicted and properly prosecuted.

Unfortunately, instead of addressing the issues the American people are really concerned about—job security, personal security, retirement security—some of our Republican colleagues have decided to raise this issue in a blatant attempt to score political points in a Presidential election year. They are willing to spend $500,000 of taxpayer dollars in an attempt to embarrass the White House. In this era of tight budgets and competing priorities, we cannot afford to waste that kind of money to pay for Republican attack ads from the Senate floor. There is absolutely no precedent for this legislation to pay Billy Dale's legal expenses.

We have never agreed to pay the legal expenses for anyone who is indicted. The Independent Counsel Act provides for the reimbursement of legal expenses for a person who is not indicted. Billy Dale, however, was indicted and was prosecuted by the Justice Department, not the independent counsel. Moreover, there is absolutely no evidence that Billy Dale was indicted unfairly. Mr. Dale never filed any motions or raised any legal objections to his indictment, and I am unaware of any finding by any court that the indictment was somehow improper or motivated by political purpose. Nor have we held any hearings on the matter. There is no factual basis for violating the Senate precedent and giving half a million dollars to Billy Dale or anyone else.

There are also undisputed facts about this matter that I find somewhat disturbing.

We know that Mr. Dale deposited over 50 Travel Office checks worth approximately $54,000 into his personal account over a 3-year period of time. He never told anyone in the Travel Office or in the Bush or Clinton White Houses about these secret deposits. These deposits only came to light because of a FBI investigation, not because Mr. Dale disclosed this information.

We know that Mr. Dale offered to plead guilty to a felony before the trial. That is fact.

We know that Mr. Dale admitted that it was ''a terrible decision on my part.''

We know that at the end of the trial, the judge ruled that there was sufficient evidence for a reasonable jury to convict Dale of all charges brought against him.

In the end, the jury acquitted Mr. Dale of the charges, but that does not mean the taxpayers should pay his legal expenses. If we gave a half a million dollars to every defendant who was acquitted, I am sure we would have people lining up for criminal trials in every courthouse in America. The fact is, we have never reimbursed anyone who was indicted, even if they were later acquitted by a jury.

So why do my Republican colleagues seek special treatment for Mr. Dale? Why should Mr. Dale be treated differently than every other criminal defendant in America?

It seems to me that he is being treated differently because my Republican colleagues are using the Travel Office matter for purely political purposes. Of course, my colleagues on the other side of the aisle say that Mr. Dale deserves to be reimbursed and that Democrats are blocking reimbursement for political reasons.

To put an end to partisan bickering over the issues, we Democrats have offered a very reasonable amendment. And let me just commend the distinguished Senators from Michigan and Nevada for their tenacity and for their willingness to bring this issue to the floor in a way that is certainly eminently reasonable, that recognizes past precedent, that recognizes the importance of a procedure that has been used over and over again in circumstances just like this.

Let us send, as they suggest in their proposal, this issue to the neutral arbiter, the U.S. Claims Court, to determine whether it is appropriate to reimburse Mr. Dale. Why not do what we have done in the past? Why not use the procedure that we have in law that will allow us a fair and objective hearing, a fair and objective analysis as to whether or not this ought to be done?

The claims court can hold hearings to obtain all the facts outside of the world of partisan politics 2 months before a Presidential election and render a recommendation that will not be tainted by partisan motivations and bias. The claims court has extensive experience in resolving these types of claims.

The Parliamentarian has already indicated that the provision to reimburse Mr. Dale is a private relief provision. There is a law in place that allows the Senate to send requests for private relief to the claims court so the court can decide whether the relief is sought in a legal way and is legally appropriate.

Mr. President, this is a fair and well-established method for resolving a dispute. It has worked before. Passage of this amendment would allow the Senate to make a decision based on legal rather than political considerations. If the claims court recommends reimbursement for Mr. Dale, then the public would know what he actually deserves, and we will not worry that he is the beneficiary of some political windfall. We are willing to live by the decision made by the claims court.

On the other hand, if the court would rule that Mr. Dale does not deserve to be reimbursed, then he will not be given a half a million dollars of taxpayers' money improperly. There is one-half million dollars at stake.

The public deserves a neutral determination on this issue, and there is an important Senate precedent at stake. We owe it to this institution to act carefully and thoughtfully, even in the heat of a Presidential election year.

Again, let me commend my colleagues, and for all these reasons, I urge all of our colleagues to join them in favor of the amendment.

I yield the floor.

The PRESIDING OFFICER. Who seeks recognition?

Mr. LEVIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Mr. LEVIN. Mr. President, how much time is left to Senator REID?

The PRESIDING OFFICER. Twenty-two and a half minutes.

Mr. REID. Mr. President, I am wondering if the 8½ minutes the leader used can be charged to leader time, and we can have the full half hour?

Mr. DASCHLE. Mr. President, I ask unanimous consent that the time that I have consumed in the presentation of my remarks be taken from my leader time.

The PRESIDING OFFICER. The Democratic leader has that right.

Mr. DASCHLE. I thank the Chair.

Mr. LEVIN. Mr. President, parliamentary inquiry. I understand there is time for debate in the morning. Is that debate part of the time which the Chair just indicated Senator REID has left?

The PRESIDING OFFICER. There has been no order entered yet with respect to the debate tomorrow.

Mr. HATCH. As I understand it, there will be 15 minutes divided equally, and I think that is the way we should go.

Mr. LEVIN. I also had the same understanding. I am not sure whether that was part of a UC. I ask Senator REID if he will yield 5 minutes to me.

Mr. HATCH. Can we ask unanimous consent that the 15 minutes, from 9:30 to 9:45 before the vote, be divided equally between Senator REID and myself or Senator SHELBY?

Mr. REID. I think they are planning to do that in wrapup.

Mr. HATCH. I will let it go then.

Mr. LEVIN. Mr. President, I ask if Senator REID might yield 5 minutes.

Mr. REID. I yield as much time as the Senator may consume.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Mr. LEVIN. Mr. President, there is plenty of evidence of White House mistakes and errors in the firing. Those have been acknowledged now for years. They have been recounted here again tonight. They have been acknowledged, as they should be. People who had legal fees that resulted from that firing should have those legal fees reimbursed, those who were not indicted. They have been reimbursed except for $50,000. That $50,000 is part of this bill. That is not what is at issue.

What is at issue is the $450,000 which would go to someone who was properly indicted, properly prosecuted, and whether or not this Senate, for the first time in our history, will be approving legal fees to someone who was legally indicted. And that is the issue.

It was not the White House that carried out the criminal investigation of Billy Dale. That was the FBI, and there is no evidence that has been alleged that I know of that the FBI investigation that led to the indictment was improper. There was no allegation at trial, there was no allegation in the House committee report that the FBI investigation that led to the criminal proceeding, that led to the attorney's fees which are at issue here, was an improper investigation.

It was not the White House which decided to prosecute. It was a very professional Department of Justice which made a decision to prosecute based not on anything that the White House had done, but on what Billy Dale had done, relative to the deposit of checks that belonged to the Travel Office, in his own personal account, and relative to

cashing checks that were intended for petty cash that didn't end up going through the petty cash ledger.

It was his actions which the FBI investigation determined were indictable.

It was his actions, not the White House action, it was his deposit of checks in his personal account, mingling money that did not belong to him in his private bank account. It was those actions that led to the indictment, led to the prosecution, not the White House action.

It was his own actions which led to an indictment which resulted in legal fees which are the subject of this issue.

Should we, for the first time without a Senate hearing, without a House report which makes even a reference to any impropriety in the indictment and prosecution, should this Senate decide that this defendant, unlike any other defendant, should have his legal fees paid, although he was indicted?

Our good friend from Utah said, ''What about Ham Jordan?'' Ham Jordan was not indicted. That is the dividing line which we are asked to cross, the dividing line between people who were indicted and people who were not.

The White House Travel Office people, except for Billy Dale, were not indicted. Ham Jordan was not indicted. People who were investigated by the independent counsel who were not indicted are entitled to legal fees if legal fees result because of the existence of an independent counsel. We have provided for legal fee reimbursement for people not indicted. We have awarded legal fees for people not indicted. The independent counsel statute provides for legal fees for people not indicted.

Should we cross that line? I think we ought to be very careful of setting a precedent, so careful that we ought to simply say, OK, these fees will be paid subject to one thing, and that is, that we got a law which says that we can refer a private claim, a private bill, to the Court of Claims, and the Court of Claims can determine if there is a legal or equitable basis for the claim.

Is there an equitable basis for this claim? The Senator from Utah feels that there is. He feels that with great intensity, as does the Senator from Alabama. I would propose to both of them that we test their hypothesis. There is a test. There is a test in law. We wrote the law. It is a reference to the Court of Claims. I propose to them that they test their hypothesis that there was anything wrong, that there was something wrong with the prosecution, investigation and indictment here. Because unless there was, there is no basis for the payment of legal fees. Test that hypothesis.

I call upon them to support an amendment which simply says, yes, we will pay those fees if the Court of Claims finds that there was an inequity here. That is the way to test their hypothesis. We can argue these facts back and forth all night. But one thing is indisputable, we have put in law a process to give us an objective evaluation of a private claim of this kind. Take it out of politics. It does not belong there. When you set a precedent of this kind, be sure you are acting on firm ground, free it from any political taint, any political coloration, refer it to the body that we have set up in law to determine whether or not a claim of this kind is based on an equitable claim.

Mr. President, I made an inquiry of the Chair back on May 14 relative to the Senate bill that Senator HATCH introduced, which would provide relief for the Travel Office employees. That inquiry which I made to the Chair on May 14 was whether or not the bill before us, which was that freestanding bill of Senator HATCH, is a private bill. The Presiding Officer ruled, after, if my recollection is clear, he consulted with the Parliamentarian, that it is a private bill.

My parliamentary inquiry at this time is, is the Senator correct that that was the ruling of the Chair on May 14 relative to that parliamentary inquiry?

The PRESIDING OFFICER. That was the response of the Chair to that inquiry.

Mr. LEVIN. Mr. President, I thank the Chair for that, and I yield the floor.

Mr. REID addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada is recognized.

Mr. REID. There has been some talk about there should not be talk on this floor about the prosecution memo, about a plea of guilty. Mr. President, we are not in court. We are in the Senate of the United States, some say the greatest debating society in the history of the world. I think it is appropriate, in a great debating arena, to talk about the facts. This is not a court of law where there are objections as to hearsay, objections as to questions having already been asked, or it is repetitive, or you do not understand it. We are here to bring out the facts, the facts from wherever we might find them. We have found facts relating to this case that for a long time have been covered up. They have been hidden in the bowels of wherever they are hidden in this big city.

The fact is that in this instance we have learned that there was an instance in a document called the prosecution memo, where among other things they found: ''We propose to charge Billy Ray Dale . . . with converting to his own use approximately $54,000 in checks and $14,000 in cash''—and I put here recognizing that they could only get 1 year of the money that he stole; there was a lot more money he stole, but the records, as indicated, have been destroyed—''received by him in connection with his official duties. The FBI has investigated this matter and strongly supports these charges.'' Justice Department, Public Integrity Section.

We are here in the Senate of the United States to talk about the facts. And the facts are, this man was indicted, and he was properly indicted. There was never a question of whether or not he was properly indicted. Had it been on the basis of the legislation talked about by my friend from Michigan, these facts would have never been given to the American public, they would have never been given to the American public that he wrote a letter through his attorney saying he would plead guilty, that the prosecution memo, line after line, indicates that this man did a lot of things that were criminal in nature. The fact, Mr. President, that he was acquitted by a jury is really too bad. But it happens, it happens in our system of justice.

It is simply wrong to accuse this administration of leaking the memo. I do not think it is my obligation to indicate where the prosecution memo was obtained, but I do know that I obtained it, and I do know it did not come from anybody in the Justice Department, did not come from anybody in the White House, directly or indirectly. It is a reckless charge, lacking in merit. We are entitled, in this Senate Chamber, to talk about letters written admitting guilt. We are entitled, in this Senate Chamber, to talk about facts as determined in a prosecution memo.

Mr. HATCH. Would the Senator yield on that for just a question?

Mr. REID. I will be happy to yield for a question.

Mr. HATCH. I appreciate my colleague yielding.

My question is this. I know the Senator did not get it from the White House directly or from the Justice Department directly, because the Senator told me where he got it. The Senator got it from the House of Representatives, which I presume whomever they got it from got it from the White House or the Justice Department. Those are the only two places it could have been obtained. I am not accusing the Senator from Nevada, although I question—I question—whether a document that so one sided should be used especially a document that is confidential. I question whether that sort of document should be used on the floor of the Senate.

Mr. REID. I say to my friend from Utah, and he is my friend from the neighboring State of Utah, that the prosecution memo sets forth facts in the case. We are entitled in this body to have facts in the case. We have heard a lot of facts over these many months from the other side about this poor Billy Dale, how he has just been put upon by everybody. The fact of the matter is, he has not been. The fact of the matter is, he was indicted, properly indicted. After having been indicted, he had a letter written saying, ''I want to plead guilty.'' And I think we are entitled to hear that. The American taxpayers are entitled to hear it. I think it is important to acknowledge, not only that, but his admissions during the trial phase.

Mr. LEVIN. Will the Senator yield for an additional question?

Mr. REID. I will be happy to yield for an additional question.

Mr. LEVIN. It is in line with the question of the Senator from Utah. Is it not true that when the Justice Department was asked for that prosecution memo by the House, it did everything in its power not to give that prosecution memo to the House, and, as a matter of fact, it was only after the House subpoenaed that prosecution memo that it was then delivered to the House? So it is not as though the Department of Justice just handed it over to the House. They told the House, this is a sensitive document. They did not want to turn that over to the House. The House, Representative Clinger insisted on it, issued a subpoena, and that is when this document was delivered to the House of Representatives. Is that correct?

Mr. REID. Absolutely, that is correct. It is not just that the Justice Department was hoping who would read it. They did not want to give it up.

Mr. HATCH. Will the Senator yield on that point?

Mr. REID. Yes.

Mr. HATCH. The Justice Department was not subpoenaed for that document. If anybody was, it was the White House. Why would they have that document?

Mr. REID. I do not know how they got it. But it was by virtue of the subpoena.

Mr. HATCH. But you do not know?

Mr. REID. I say to my friend from Michigan and my friend from Utah, I do not know how it wound up in the House. It got there as a result of Chairman CLINGER wanting it and having gotten it, and it worked its way to this body, as it should.

Now, I repeat, if the Billy Dale constituency is so confident that they have merits on their side, they should allow for this to be removed from this political arena during this Presidential election time and decided by an independent body. That is why we have the Court of Claims.

There has been a lot of talk here tonight about other Travel Office employees. The other Travel Office employees were not indicted, and they have been or will be fully reimbursed. They have gotten most of their money now, except for a few incidentals, and everyone acknowledges they should be paid. We are willing to do that.

The House and others at the time they acted simply did not have the facts. Billy Dale is not an honest person. The jury did not find that he was honest. They acquitted him. The jury in the Menendez brothers case did not find they were good sons. They acquitted them on the first go-round. They were acquitted. It was a hung jury—hung jury. They did not find that they were nice young men who were good to their parents, just as this jury did not find that Billy Dale was honest. That was not a requirement of their findings. They looked at jury instructions and ruled upon those jury instructions in weighing the fact that he was not guilty as charged.

I disagree with them. I think any reasonable person would. But the prosecution did a lousy job of presenting the case to the jury. It happens.

He admitted being dishonest, and I think it is important we recognize that there are many disputed facts. My good friend, the distinguished senior Senator from Utah, says there are no disputed facts. There are lots of disputed facts. That is why, in my opinion, it is not right to give him attorney's fees. This is raw politics. This money is not for trial. Some of the money in the time sheets that have been presented deal with even press events. He had to appear at press events.

Mr. President, the prosecution memo, we should not leave that memo so soon. We will go to a few pages on the prosecution memo in summation.

Shortly after the Travel Office employees were fired, the FBI began its investigation under our supervision. The vast majority of the allegations we examined prove meritless as to other Travel Office employees. However, we found substantial evidence that Dale, in fact, stole at least $14,000 in petty cash, and he converted approximately $54,000 worth of travel checks to his own use.

We found no evidence of illegal conduct by any other member of the Travel Office. That is why we have agreed to reimburse them. The media checks selected by Dale for deposit in his account were not for Main Street press organizations but English, Japanese, German, and Hispanic media.

The selection is significant. The refunds were generated by the vendors on their own and arrived unexpectedly, and their absence would not be missed. Similarly, the checks from the esoteric news services were less likely to be scrutinized.

Mr. President, I think it is also of note in the prosecution memo—because until I read this, this is the first I knew about this—the petty cash logs covering the period prior to February 1992 are missing. Dale had no explanation for the missing logs. These deal with petty cash. This is where he got the cash. He did not deal with checks in this instance.

Another few lines from the prosecution memo:

> The evidence indicates that Dale stole this missing $14,000 in cash.

Next:

> There was simply no need to cash these sizable checks at the time they were presented.

Next:

> He cannot claim credibly he used the relatively large amounts of unrecorded cash to pay trip expenses during this period.

Finally:

> Dale's explanation is not credible.

That is what this case is all about. That is why the Court of Claims should review this.

Mr. President, this is important that we go forward on this to the Court of Claims. It would take politics out of this. It would send it to a body that is designated under our laws and the Constitution to deal with cases like this. Hundreds and hundreds of cases have been forwarded to them—private claims cases.

Now, if this amendment offered by the Senators from Nevada, Michigan, and Delaware, if it does not pass, if this amendment does not pass, the next thing that will be said is that the Senate approved the payment of $500,000 to Billy Ray Dale. The fact of the matter is that the right way to handle this is not in the political arena, where people are crowing over what was done or not done. The fact is, it should be referred to the Court of Claims, and let this body decide this disputed factual case on the facts and on the money.

We are given $500,000, or $499,999 to approve this. This is the dispute, the amount of money. And there is a dispute whether he is entitled to it and whether he is entitled to the amount of money requested.

We have done, I think, the honorable thing. We have come before this body, as many have suggested, in an outright denial in the amendment of giving him this money. We have done it, we think, in a reasonable manner, and we have an independent third party determine whether or not this money should be paid to Billy Ray Dale and, if so, how much should be paid.

I reserve the balance of my time.

Mr. HATCH. How much time is remaining?

The PRESIDING OFFICER. The Senator has 20 minutes remaining, and the other side has 7 minutes remaining.

Mr. HATCH. Mr. President, let me just say a few words, and then I will again yield the floor. I would like not to use all of my time, if my colleagues are willing to yield back.

The distinguished Senator from Michigan has repeatedly stated time and time again that Mr. Dale put money into his own account. No one disputes that. That is the way it was done through the years, and there was nothing illegal about doing that, either. The White House Travel Office is run for the benefit of the White House and the media. As part of that job, Mr. Dale had to have access to funds on short notice. No one has complained about that fact. Most importantly, the media did not care that Mr. Dale put their money, the media's money, into his account.

However, Mr. Dale does deny, and the jury agreed, that he did not steal or convert that money or those funds, and was found not guilty of the charges that were levied against him. In fact, one of the distinguished members of the media testified for him, Sam Donaldson, one of the most well-known people in the press today, a person for whom I have a lot of respect.

The fact of the matter is that the Justice Department can indict anybody they want to. Grand juries generally do what the prosecutors tell them to do.

That is no big deal. I find it unconscionable that after having been tried, having incurred legal expenses of half a million dollars, and then having a jury of his peers acquit him that my colleagues here on the Senate floor are suggesting that they think Mr. Dale is still guilty.

I do not find that in good form. Frankly, it really is a sin, especially when you go to the real facts of how this man and his partners, his colleagues in the Travel Office, were screwed by the White House, for greedy purposes, by people who just got the White House, thought they had total power, and wanted to move their friends into the lucrative Travel Office business. I am specifically speaking of Mr. and Mrs. Thomasson and a personal relative of the President. Not only did they do that, but they even used White House counsel to intimidate the FBI in this matter. They did an inadequate accounting in this matter. It was anything to get rid of these people so they could put their cronies into this lucrative position.

These people had served the White House for years, various Presidents, and had done so with the respect of all prior White Houses. The White House itself, in the memo I read earlier, found in the material sent by the White House, said they had messed this up, and they had acted improperly.

This is from the White House:

> You all may dimly remember the Travel Office affair, in which a number of the White House staff—many immature and self-promoting—took impulsive and foolhardy actions to root out problems at the beginning of the Clinton administration and to then gallantly recommend that they take over its operation.

That was straight out of a document provided by the White House.

The fact is that I don't think anybody who looks at this fairly could deny that these people deserve to be treated fairly. This is a question of fairness. It is a question of justice. It is a question of making amends for a White House that acted improperly, and did so, for the most part based on personal greed.

To clarify the record, I have done some investigation in the interim period here. I want to discuss, for a minute, the exposure of the plea agreement and the prosecution memo. I believe these are the accurate facts. We have checked with the parties concerned. The White House called us and said they were not responsible. I don't want to accuse the White House. I just said it has to be the Justice Department or the White House, one or the other. That is all it could be. In fact, the plea agreement was leaked from the Department of Justice or the White House to U.S. News and World Report. In addition, the Department of Justice, when they did produce that document to Chairman CLINGER's committee, failed, in violation of their own regulations, to treat that document in a sensitive and confidential manner. The second document, the prosecution memorandum, was produced after the trial to the House of Representatives. Once again, someone on the Democrat side of the House of Representatives leaked this very confidential memo. Once again, it is my contention that this Administration and their friends in Congress would do anything to harass Mr. Dale.

It is hypocritical. It is hypocritical for the White House to take care of their own people and not be willing to right this wrong. I can't imagine anybody who looks at the facts, clearly, coming to any other conclusion other than that this is an injustice to these people, a terrible ordeal to Mr. Dale and his family, and it ought to be rectified. That is what the Congress is trying to do at this point. That is certainly what I am trying to do. I think that is what any fair-minded person would try to do.

To come in here and make a case that they don't believe that Mr. Dale was innocent, after he was proven innocent, after a jury of his peers found him to be innocent, after members of the media, whose money was involved, testified he was innocent, is pretty astounding to me. Once again, I oppose the motion of the Senator from Nevada to strike the language to reimburse the legal expenses of the seven White House Travel Office employees who were victimized by the Clinton administration for nothing more than political favoritism.

The only crime that Mr. Dale and his colleagues committed was having the bad fortune of holding a job which political cronies of the White House wanted. The politicization of the Department of Justice and the FBI in bringing numerous investigations, and finally a bogus prosecution against Mr. Dale, is unconscionable and it should not be tolerated. My colleagues on the other side of the aisle claim that such a payment is unprecedented, in response to which, I say, the circumstances by which Billy Dale was persecuted and smeared, and the others fired, is unprecedented. It deserves unprecedented treatment and resolution. And it should be treated as such. This is a meritorious case. If I have ever seen one, this is one. What was done to these people should never have occurred in this manner. House Republicans and House Democrats recognize this fact. Why can't Senate Republicans and Senate Democrats recognize this fact? I think everybody in this body really knows this to be the fact. If we in Congress are to reimburse legal fees on a case-by-case basis when the case merits it, then that is a good thing. I have never seen a case more worthy than this particular case.

Now, there is no reason to go to the court of claims in this matter. Let's just do what is right. There is no doubt in my mind that part of the reason why our colleagues on the other side want the court of claims to decide this matter is so they get it beyond the election. Frankly, this should not involve the election. This is doing what is right. If I were the President, I would say, if you could get rid of this, do what's right, pass the bill, and let it be forgotten.

But I will tell you some people who are never going to forget this, even if this bill passes and the President signs it into law, and that is Billy Dale and the people with him. No amount of reimbursement of attorney fees, no amount of compensation, no amount of money, compensatory, punitive, or otherwise, will make up for what they have been through. I can tell you right now that Billy Dale undoubtedly has lost 8 or 10 years of his life because of this ordeal, and so would anybody in this body.

I want you to know that if we have any self-respect at all, this body will do what is right here. I am asking my colleagues to do what's right here. I hope there are some on the other side that will see their way clear to do what's right in this matter. That is what I ask.

If my colleagues are prepared to yield back their time, I will yield back mine.

Mr. LEVIN. I ask for 2 additional minutes.

Mr. HATCH. I will reserve the balance of my time then.

Mr. LEVIN. Will the Senator from Nevada yield 2 minutes?

Mr. REID. Yes.

Mr. LEVIN. Mr. President, I have a couple of quick comments. First of all, I believe I heard the Senator from Utah, some minutes back, say that the Justice Department leaked the prosecution memo. I now ask unanimous consent to have printed in the RECORD a letter from the Justice Department to Representative WILLIAM CLINGER, saying that the only reason they are presenting this prosecution memo, as Representative CLINGER was insisting upon, is because they were threatening the Attorney General with contempt, unless that prosecution memo was provided to the House committee.

So this was not a memo that was provided to anybody willingly, as far as I know, by the Justice Department. This was a memo that was subpoenaed and obtained upon threat of contempt of the Attorney General herself.

I ask unanimous consent that the letter from the Department of Justice, not from the White House, to Representative CLINGER, dated May 8, saying that they were now enclosing this, despite their very strong reluctance to do so, and it was all set forth in this letter, be printed in the RECORD.

The PRESIDING OFFICER. Is there objection?

Mr. HATCH. What I said was that somebody from either the Justice Department or White House leaked it to the U.S. News & World Report before Chairman CLINGER asked for this material.

Mr. LEVIN. I don't know what the basis of the Senator's statement is—

Mr. HATCH. The U.S. News & World Report.

Mr. LEVIN. The basis of the Senator's statement 10 minutes ago that the Justice Department leaked this, it seems to me, is not established by any factual evidence that he has provided.

Mr. HATCH. If the Senator will yield, the point I was making is this. Although Representative CLINGER had a right to ask for it, I am not sure they should have given it to him. But they did. But at least before they gave it to him, somebody leaked it to U.S. News & World Report. That somebody had to be somebody in the Justice Department or the White House, which were the only two bodies who could possibly have had it. The White House called me, and, in all fairness to them, they said it wasn't them.

So it had to be. If it was not them, the Justice Department, or somebody who got into the Justice Department, stole it. I do not think that is possible.

The PRESIDING OFFICER. Is there objection to the request?

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

U.S. DEPARTMENT OF JUSTICE,
OFFICE OF LEGISLATIVE AFFAIRS,
Washington, DC, May 8, 1996.

Hon. WILLIAM F. CLINGER, Jr.,
Chairman, Committee on Government Reform and Oversight, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: Based upon my conversation with Barbara Olson this morning, we understand that the Attorney General will be removed from the Committee's contempt proceedings agenda as a result of our providing the enclosed documents.

The enclosed documents are the prosecution memorandum for Billy Ray Dale and a related prosecutorial decisionmaking document plus two declination memoranda concerning decisions not to bring criminal charges against other individuals. As our February 26th letter explained other individuals. As our February 26th letter explained, extremely sensitive criminal justice documents of this kind are made available outside the Department only under the most extraordinary circumstances. We made these particular documents available for committee review only as a result of the Committee's subpoena; we brought them to the Committee's offices for review three times and advised the staff that we would return with them as often as necessary to accommodate the Committee's oversight needs.

We would prefer to continue to provide these core deliberative documents to the Committee on that basis. In light of the Committee's announced intention to hold the Attorney General of the United States in contempt of Congress, we are forwarding these documents to you. In doing so, we do not intend to prejudice in any way the Department's response to any future requests from the Committee or any other congressional committee.

We are very concerned that the public disclosure of this deliberative process and attorney work product material might inhibit the candor of our internal deliberations. We have requested and Committee staff have agreed that access to these types of documents will be limited to Members and Committee staff and that the Committee will not disclose the documents outside the Committee without first affording the Department an opportunity to confer with staff further about our concerns regarding such disclosure. We reiterate that request as to these documents and, further, urge the Committee to limit access to Committee staff only and make no copies.

Sincerely,

ANDREW FOIS,
Assistant Attorney General.

Mr. LEVIN. The document in question had been brought to the committees, and I am now here quoting the letter, prior to its being delivered pursuant to the threat of contempt of the Attorney General, that these documents, according to the letter, were made ''available for committee review only as a result of the committee's subpoena; we brought them to the committee's offices for review three times and advised the staff that we would return with them as often as necessary to accommodate the committee's oversight needs. We would prefer to continue to provide these core deliberative documents to the committee on that basis.''

But then they go on to say, ''In light of the committee's announced intention to hold the Attorney General of the United States in contempt of Congress, we are forwarding these documents to you.''

They have previously shared the document with Members three times. So to attribute leaks to any particular source without evidence under these circumstances, it seems to me, is without foundation.

No. 2, I may have misheard the Senator from Utah on this. I may have misheard the Senator from Utah on another point. If I did, then I would stand corrected. I believe, however, that the Senator from Utah said that he had deposited checks that belonged to the Travel Office for 30 years in his own account.

Mr. HATCH. No, I didn't say that. I said he had been depositing some of the checks of the media.

Mr. LEVIN. That this was done regularly.

Mr. HATCH. It was done regularly for years.

Mr. LEVIN. No one knew it.

Mr. HATCH. The people there knew it.

Mr. LEVIN. Oh, no. May I make this very clear? No one knew that he was depositing checks in his own personal checking account.

Mr. HATCH. The media has never objected. The point I was making is the media, when they knew about it, never objected—never objected at any time. And, in fact, one major representative of the media testified—

Mr. LEVIN. His colleagues did not know. The FBI was not informed when they were investigating the practices in the office. Peat Marwick, when they looked at this, were not informed by him that he had done this.

So the point that that practice being somehow or other appropriate because it had been going on for a long time, it seems to me, begs the question.

Finally, I would urge my friend from Utah to test this course of action. He said that he cannot imagine anyone coming to any other conclusion than the one that he has come to, that there was an injustice for these people. Again, I urge him to test that hypothesis by doing what we do regularly with private bills, which is to refer them to the Court of Claims. This will be the only defendant in history legally indicted whose legal fees will be paid. It will be the only defendant whose legal fees will have been paid who was properly indicted.

The Senator from Utah feels, with great certainty under his hypothesis, that no one else can come to any other conclusion that an injustice was done here should be tested by doing what we have done with private bills over and over and over again. This would be the exception to a rule that we do not pay legal fees to people properly indicted.

Test the hypothesis, Senator. Send this claim to the Court of Appeals. And, if you are right, that they find, and that any reasonable person would find, that there was an inequity here, in fact, not only will the fees be paid, but they should be paid. But that should be done by an objective person, an objective party, an objective institution, the Court of Claims, and not by this body 2 months before an election in the heat of a political campaign.

Mr. REID addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, because the question has been raised from the trial transcript at pages 129 and 130, Dale admitted that he didn't tell anyone else at the Travel Office that he was putting these checks into his own account and not the Travel Office account. He admitted that he didn't even tell the individual he worked with in the Travel Office for 30 years, his chief assistant, Gary Wright, of this practice.

The PRESIDING OFFICER. Who yields time?

Mr. HATCH. I will take a couple of minutes, Mr. President.

For the record, in the House interview with the Peat Marwick representative that was so mightily represented here, the Peat Marwick representative said that this case, meaning the White House Travel Office audit, was the only one he has been involved in where he was told the outcome before the investigation was completed.

This was a trumped-up case against decent people, and even though everybody admits that it would have been better for Mr. Dale to not have put the money in his account, that it was a mistake to do that, nevertheless, nobody that I know of accuses him of having taken that money for his own use. In fact, to the contrary, the testimony in the trial, and that which resulted in his acquittal, was that he used the money properly, that he had to have access to it to be able to solve the problems with the media.

So I think it is really overreaching to try to say because a person is indicted, that an injustice could not have occurred. I can give a lot of cases where

people have been unjustly indicted. This is one of them. This is an exceptional case. It ought to be treated exceptionally.

The fact of the matter is that the White House was trying to please four people, Harry Thomasson and his wife, Linda, Catherine, Cornelius, and Clerissa Cerda. The David Watkins memo makes that clear. I do not think anybody could read that memo and then fail to get outraged by the way these people were treated.

Finally, just to make the Record clear, the plea agreement was leaked by someone in the Justice Department, or the White House, to U.S. News & World Report. The prosecution memo was provided to Chairman CLINGER, who shared it with his minority counterparts, and somebody on the minority staff gave it to the media. The plea agreement had to be leaked by either the White House or the Justice Department. I am willing to take the White House word that they did not do that. Then, it had to be somebody in the Justice Department who did, because they are the only other people who had access to it. And it was improper. It was wrong. It was unethical.

But be that as it may, that does not change the facts of this case that these were decent people who had served successive Presidencies, who had decent reputations, who did their job well and who pleased both the White House and the media, who were just plain mistreated, unjustly, by a superaggressive White House that was acting in its own greedy interests. And if there is ever a case where we ought to stand up and say this is an exceptional situation, we ought to provide this exceptional remedy, this is the case to do it in.

So I am asking my colleagues to vote for the Hatch amendment, which would grant these funds, and to vote down the Reid-Levin amendment, which would again force this man to get attorneys and go to the Court of Claims to get that which is justly his to begin with. That is what you call justice in America: making wrongs right.

Having said all of that, I understand I still have some time. So I yield the remainder of my time, and I do not want to keep my colleagues any longer than I have to.

The PRESIDING OFFICER. All time is yielded back.

LIVE ANIMAL HOLDING FACILITY AT BOISE STATE UNIVERSITY

Mr. CRAIG. Mr. President, I would like to discuss with the Chairman a process that has been initiated between the General Services Administration [GSA] and several Federal, State and local agencies, of which the Appropriations Committee would want to take cognizance. This process concerns the feasibility of designing and constructing a live animal research and holding facility at Boise State University.

The facility would be used for basic and applied ecological research, providing biological information and related technical support to natural resource managers and policymakers, and education and information transfer. It would directly serve the Raptor Research Center at Boise State University.

A first meeting has been held between GSA representatives and some of the agencies that will use the proposed facility, including the U.S. Fish and Wildlife Service, the Idaho Department of Fish and Game, the Peregrine Fund, and Boise State University, which would be the site of the facility. GSA believes this is the kind of project that falls within its purview and is something that may be beneficial to undertake.

Mr. SHELBY. I thank the Senator from Idaho for providing this information and would ask what are the goals of this process at this time?

Mr. CRAIG. The discussions currently underway are preliminary and should lead to a determination of whether to initiate a formal feasibility study.

Mr. SHELBY. Does the Senator foresee any costs associated with these preliminary steps?

Mr. CRAIG. No. These initial contacts are necessary to determine if the project can and should be pursued by GSA and other agencies involved.

Mr. SHELBY. I thank the Senator for this information and assure him the committee will follow the outcome of these meetings with interest. Such activities would be under this subcommittee's jurisdiction and we will want to continue to monitor any progress on this project and keep it under consideration for the future.

REGULATORY ACCOUNTING

Mr. STEVENS. Mr. President, I want to address the regulatory accounting provision in section 645 of the Treasury-postal appropriations bill, H.R. 3756. I believe the public has the right to know the benefits of Federal regulatory programs, as well as their costs, which have been estimated to be $600 billion per year.

To address concerns raised by Senators GLENN and LEVIN, I made technical changes. First, subsection 645(a)(1) requires OMB to provide estimates of the total annual costs and benefits of Federal regulatory programs in the upcoming fiscal year. This includes impacts from rules issued before fiscal year 1997, not just new rules. But OMB need not assess costs and benefits realized in preceding years. I deleted the word ''cumulative'' to clarify that. OMB should use the valuable information already available, and supplement it where needed. Where agencies have, or can produce, detailed information on the costs and benefits of individual programs, they should use it. I expect a rule of reason will prevail: Where the agencies can produce detail that will be informative to the Congress and the public, they should do so. Where it is extremely burdensome to provide such detail, broader estimates should suffice.

Subsection 645(a)(3) requires OMB to assess the direct and indirect impacts of Federal rules on the private sector, State and local government, and the Federal Government. Beyond compliance costs, regulation also creates a drag on real wages, economic growth, and productivity. OMB should use available information, where relevant, to assess the direct and indirect impacts of Federal rules. OMB also should discuss the serious problem of unfunded Federal mandates and inform Congress what it is doing about the problem.

In the end, I expect OMB to produce a credible and reliable picture of the regulatory process—a picture that highlights the costs and benefits of regulatory programs and that allows Congress to determine which programs and program elements are working well, and which are not.

ERIE FEDERAL COURTHOUSE PROJECT

Mr. SPECTER. Mr. President, I would like to address the issue of funding for the Erie Federal Complex construction project, which includes a courthouse annex. The current courthouse provides inadequate space and is not consolidated at a single location. The new facility will accommodate the existing and anticipated future demands of the courts and will allow for the consolidation of the courts in one convenient location. The House bill for fiscal year 1997 provides the $3.3 million required for site acquisition and design work, as requested by the General Services Administration. I am troubled, however, that the Senate bill does not include funding for the Erie Federal Complex.

I join with my constituents in Erie in recognizing the importance of this project to the community and support funding the Erie project in fiscal year 1997. This project is duly authorized. Further, $3.135 million for site acquisition and design was contained in both the House and Senate versions of the fiscal year 1995 Treasury, postal appropriations bill, but was dropped in conference that year because of an internal House decision to defund certain projects which I am advised was not based on the merits of the proposed Erie project.

I would ask the distinguished Chairman, my good friend from Alabama, for his views on the Erie project and whether he believes it merits favorable consideration during conference.

Mr. SHELBY. I thank my colleague from Pennsylvania for his comments in support of the Federal Complex project, which will benefit the administration of justice in Erie, PA. I regret that the Senate funding levels are constrained and that it has been difficult to identify funds for a number of worthwhile courthouse projects. As we proceed to conference with the House, I intend to work closely with the senior Senator from Pennsylvania to obtain funds for site acquisition and design, as requested by the Administration. The Erie project has been approved for funds by the Senate in previous legislation and thus deserves our best efforts.

Mr. KOHL. Mr. President, I would ask for just a few moments to discuss my amendment, which the Senate unanimously adopted during yesterday's debate. First, let me thank Senators SHELBY and KERREY for their support and hard work in crafting the Treasury-postal appropriations legislation before us.

My amendment, which expresses the sense of the Congress, relates to the Internal Revenue Service telephone assistance program, one which the IRS advertises as a first line of assistance to the American taxpayer. I am pleased that it is now included in this bill because when it comes to telephone assistance, the IRS customer service record is abysmal. In fact, it's an embarrassment.

In fiscal year 1995, IRS assistors reportedly answered 38 percent of taxpayers' calls. In fiscal year 1996, the figure improved slightly, but still only 46 percent of taxpayers got through to IRS assistance personnel. In other words, currently, less than half of the taxpayers in need of help even get through to an IRS assistor, and that may be after trying once or trying 10 times. In terms of pure accessibility, the statistics are even more startling. During the fiscal year 1996 filing season, a mere 20 percent of taxpayers got through to an IRS assistor on their first try.

As many of my colleagues know, before coming to the United States Senate, I ran a business. And if there's one simple bit of wisdom learned from my years in business, and practiced to the best of my ability, it is that the customer always comes first. In adopting my amendment, I am pleased that the Senate has spoken with one voice in sending that same message to the IRS—take whatever steps necessary to put your customers, the taxpayers of this country, first.

I would add that I know customer service is of great concern to the distinguished ranking member, Senator KERREY of Nebraska, who cochairs the National Commission to Restructure the Internal Revenue Service. I hope that we can continue to work together on this issue when the Commission reports to Congress next July.

Mr. President, each year Americans in all walks of life and from every income bracket encounter questions when filling out tax forms and calculating tax obligations. And since few people dispute the challenges of navigating the current tax code, it comes as no surprise that many Americans seek help in order to fulfill their civic duty responsibly and accurately. The IRS' toll free 1–800 assistance service would seem a logical first step. But the IRS, on the receiving end, if you will, picks up the line less than half the time. Thus, the majority of callers do not even have the opportunity to pose, let alone work out, their questions.

This fact is troubling, very troubling, particularly when considered in light of other problems. For example, many constituents in my homestate of Wisconsin who have the good fortune, or should I say the good luck, to get through to IRS assistors, have then been put on hold and subjected to significant waits that have sometimes ended with a random and inexplicable disconnection of the line.

Simply put, this level of service is unacceptable. And in the end, it's not unreasonable to speculate that it works against our overall efforts to streamline the government. After all, if taxpayer questions are not being answered, more mistakes are being made and more IRS follow-up and investigation is required.

The IRS is aware of the problems. The General Accounting Office has issued reports. The Social Security Administration and private sector interests provide numerous examples of ways to improve telephone assistance. And now Congress has made the first of what may be many calls to the IRS, urging them to establish performance goals, operating standards and management practices—whatever it takes to get the lines answered and put the customer first.

ATF ''DISABILITY RELIEF'' PROGRAM

Mr. SIMON. Mr. President, I say to Senator LAUTENBERG, I would like to raise an issue of great importance. The current version of this appropriations bill would not fund the Bureau of Alcohol, Tobacco and Firearms' [ATF] disability relief program. Under current Federal law, someone who has been convicted of a crime punishable by more than 1 year is ineligible, or disabled, from possessing a firearm—a sensible idea. However, Congress created a loophole in 1965 whereby convicted felons could apply to ATF to have their firearm privileges restored, at an estimated taxpayer cost of $10,000 per waiver granted.

We have fought to end this program and have succeeded in stripping the program's funding in annual appropriations bills since 1992.

This year, we face an additional challenge in our efforts to keep guns out of the hands of convicted felons. A recent court case in Pennsylvania has misinterpreted our intentions and opened the door for these convicted felons to apply for judicial review of their disability relief applications.

In this case, Rice versus United States, the Third Circuit Court of Appeals found that the current funding prohibition does not make clear congressional intent to bar all avenues of relief for convicted felons. By their reasoning, since ATF is unable to consider applications for relief, felons are entitled to ask the courts to review their applications.

This misguided decision could flood the courts with felons seeking the restoration of their gun rights, effectively shifting from ATF to the courts the burden of considering these applications. Instead of wasting taxpayer money and the time of ATF agents—which could be much better spent on important law enforcement efforts, such as the investigation of church arsons—we would now be wasting court resources and distracting the courts from consideration of serious criminal cases.

Fortunately, another decision by the fifth circuit in U.S. versus McGill found that congressional intent to prohibit any Federal relief—either through ATF or the courts—is clear. The fifth circuit concluded that convicted felons are therefore not eligible for judicial review of their relief applications.

Given this conflict in the circuit courts, we should clarify our original and sustaining intention. The goal of this provision has always been to prohibit convicted felons from getting their guns back—whether through ATF or the courts. It was never our intention to shift the burden to the courts.

Congressman DURBIN and his colleagues succeeded in their efforts to include language in the House appropriations bill to make clear that convicted felons may not use the courts in their efforts to get their guns back. I applaud the House committee for its wise vote on this issue.

During the same markup, Congressman DURBIN'S efforts were undermined by a related exemption offered by Congressman OBEY. This exemption would allow those individuals convicted of nonviolent felonies the ability to appeal for judicial review of their relief application.

According to Congressman OBEY's amendment, the opportunity to appeal to the courts would be closed to those ''felons convicted of violent crimes, firearms violations, or drug-related crimes.'' All other felons would be allowed to apply to the courts for review of their relief applications.

Mr. OBEY's exemption is clearly inconsistent with the original intent of this provision for three simple reasons:

First, one need only consider people like Al Capone and countless other violent criminals who were convicted of lesser, nonviolent felonies, to understand how dangerous this ''Capone amendment'' will be to public safety. Our intent when we first passed this provision—and every year thereafter—has been to prohibit anyone who was convicted of a crime punishable by more than 1 year from restoring their gun privileges via the ATF procedure or a judicial review.

Second, as Dewey Stokes, the former President of the Fraternal Order of Police noted, most criminals do not commit murder as their first crime. Rather, most criminals start by committing non-violent crimes which escalate into violent crimes. An ATF analysis shows that between 1985 and 1992, 69 non-violent felons were granted firearms relief and subsequently re-arrested for violent crimes such as attempted murder, first degree sexual assault, child molestation, kidnaping/abduction, and drug trafficking.

Third, there is no reason in the world for the taxpayers' money and court resources to be wasted by allowing the review of any convicted felons' application to get their guns back. It made no sense for ATF to take agents away from their important law enforcement work, and it makes even less sense for the courts, which have no experience or expertise in this area, to be burdened with this unnecessary job. Let me make this point perfectly clear: It was never our intent, nor is it now, for the courts to review a convicted felon's application for firearm privilege restoration.

Mr. LAUTENBERG. I thank the Senator for clearly laying out the facts. As the coauthor of this provision, I share his interest and concern about this issue. I agree with his analysis completely and intend to closely follow this situation in the coming year to see if any further legislation is necessary to clarify our intent. I would also like to take this opportunity to let my colleague know how much I enjoyed working on this issue with him as well as so many other matters. I want to ensure him that although he will not be here next year to continue his work in the Senate on this matter, I fully intend to carry on the fight for us both.

FLEXIBILITY FOR TELECOMMUTING CENTERS

Mr. WARNER. Mr. President, in an effort to meet the changing needs of the Federal work force, I rise in support of a provision contained in the Treasury postal appropriations bill which authorizes the General Services Administration to begin work on a series of flexiplace work telecommuting centers.

Currently, many Federal employees from both the legislative and executive branches are enjoying the convenience and efficiency of six completed telecommuting centers located throughout the Metropolitan Washington, DC area.

While Federal employees enjoy the advantages of working at these telecommuting centers, their employer, the Federal Government, reaps the benefits of increased productivity and improved work quality.

As the Senate accepts the important responsibility to reign in Federal spending and control our Federal debt, we surely realize that these telecommuting centers must be economically self-supporting or they will not succeed.

For that reason, I, along with my friend in the House of Representatives, Congressman FRANK WOLF, have asked our respective Appropriations Committees to insert language granting much needed flexibility to the General Services Administration in regard to telecommuting centers.

In order to maintain these centers as self-sufficient entities, the Congress must allow non-Federal employees to fill any vacant slots in the telecommuting centers. Currently, Federal employees cannot fill all of the slots all of the time, so it only makes sense to allow non-Federal employees utilize these facilities and increase the revenue going to these important centers.

This legislation also permits the Administrator of General Services Administration to transfer control of any or all of the telecommuting centers to State, local, or nonprofit organizations. This step will further ensure the economic viability of these telecommuting centers.

While maintaining the necessary commitments to our Federal work force, this language will provide the necessary flexibility to let these telecommuting centers thrive and prosper without Federal micromanagement and increased Government spending.

MORNING BUSINESS

Mr. SHELBY. Mr. President, I ask unanimous consent that there now be a period for the transaction of morning business with Senators permitted to speak for up to 2 minutes each.

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

U.S. FOREIGN OIL CONSUMPTION: HERE IS WEEKLY BOX SCORE

Mr. HELMS. Mr. President, the American Petroleum Institute reports that for the week ending September 6, the United States imported 7,400,000 barrels of oil each day, 1,300,000 less than the 8,700,000 imported during the same week a year ago.

Nevertheless, Americans relied on foreign oil for 53 percent of their needs last week, and there are no signs that the upward spiral will abate. Before the Persian Gulf war, the United States obtained about 45 percent of its oil supply from foreign countries. During the Arab oil embargo in the 1970's, foreign oil accounted for only 35 percent of America's oil supply.

Anybody else interested in restoring domestic production of oil—by U.S. producers using American workers? Politicians had better ponder the economic calamity sure to occur in America if and when foreign producers shut off our supply—or double the already enormous cost of imported oil flowing into the United States—now 7,400,000 barrels a day.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Tuesday, September 10, the Federal debt stood at $5,217,211,394,956.03.

Five years ago, September 10, 1991, the Federal debt stood at $3,617,377,000,000.

Ten years ago, September 10, 1986, the Federal debt stood at $2,103,341,000,000.

Fifteen years ago, September 10, 1981, the Federal debt stood at $979,625,000.000.

Twenty-five years ago, September 10, 1971, the Federal debt stood at $415,728,000,000. This reflects an increase of more than $4 trillion ($4,801,483,394,956.03) during the 25 years from 1971 to 1996.

ZION NO. 1, MISSIONARY BAPTIST CHURCH 126TH ANNIVERSARY

Mr. HEFLIN. Mr. President, on Sunday, August 11, 1996, the Zion No. 1, Missionary Baptist Church celebrated its 126th anniversary. Zion No. 1 was formed in 1870, only a few miles from its present location in Barton, AL. It is one of the oldest in the State of Alabama.

Arthur Barton, a white landowner, donated the land for this church as a gift to its organizers, who had a phenomenal zeal for worshipping God. The church they built stood for many years. A second building, home of the Pine Grove Methodist Episcopal Church, located on a hill just off Highway 72 in west Colbert County, was purchased from the Methodist Conference by the small Zion No. 1 congregation in 1891 for $300.

This church building was held together by wooden pegs. It is reported that there are no nails in the building. Kerosene or coal oil lamps were used for light. Two enormous pillars were visible in the center of the sanctuary running from the floor to the ceiling. These are still in place today.

During the Civil War, the Pine Grove Methodist Episcopal Church building had been used as a temporary hospital for wounded soldiers. It is said that two cannon balls were found in the walls as a result of a battle which took place between the town of Barton and the Tennessee River. There were blood stains on the floor and on portions of its baseboards and gunshot holes were visible in the walls. The basic structure which exists today remains largely as it was when it was constructed before the Civil War. Subsequent renovations have hidden evidence that it was once a hospital and church for wounded Confederate soldiers.

In 1969, brick was added, as well as new fixtures, carpeting, and a public address system. In 1977, a new roof was added, carpeting was laid in the educational annex, and folding doors were added.

The years between 1978 and 1986 were a time of rapid growth for Zion No. 1, Missionary Baptist Church. The congregation purchased three acres of land to expand the cemetery, and the central heating system was installed. A second educational annex, which includes a baptismal pool, was constructed. Previously, the Tennessee River had been used for baptizing new members.

The Reverend Wayne S. Bracy became the 16th and current pastor on February 8, 1992. He has brought a fervent spiritual atmosphere and a commitment to teaching and training to Zion No. 1.

I am pleased to congratulate the Zion No. 1, Missionary Baptist Church on the occasion of its 126th anniversary.