

Mrs. KASSEBAUM. Yes. These words are meant to broadly preclude the use of any of the categories insurance companies have historically used to deny people coverage based on health status and related factors—that reasonably could lead a health plan to believe that an individual would incur high health costs or be uninsurable. They are meant to preclude use of any of the categories insurance companies have historically used to deny people coverage based on their expected health costs—not only medical history or the presence of preexisting conditions, but also including such factors as family history, likelihood of experiencing domestic violence—or actual experience of domestic violence, genetic predispositions or other genetic information, or residence in a low-income neighborhood.

I want to just mention a few measures that we will have to address in the conference. The Health Insurance Reform Act is a modest, responsible bipartisan solution to many of the most obvious abuses in the health insurance market today. In fact, the only active opposition to the legislation comes from those who profit from the abuses in the current system. In his State of the Union Address last January, President Clinton challenged the Congress to pass this bill. Now the Senate is poised to fulfill that pledge.

Mr. President, the only thing that stands between this bill and the President's signature are controversial provisions added in the House of Representatives. These objectionable provisions include, again, the medical savings accounts which we have debated, the federalization of multiple employer welfare arrangements—Mr. President, I ask for 3 more minutes.

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

Mr. KENNEDY. The federalization of multiple employer welfare arrangements. A number of years ago we provided the States the power for the enforcement of those arrangements. It is rather strange now that those provisions which permit the States to enforce it are effectively being preempted so that the Federal Government will support it.

Repeal of the MediGap rules protecting senior citizens against profiteers. That is a very dangerous provision. Up to 1984 we found that many elderly people would buy 2, 3, 4, 5, 10 different programs to cover various gaps in their insurance. We found all kinds of abuses. We passed legislation to deal with that. It has been effective. I am not sure that we ought to go back to the earlier period.

The provisions making it more difficult to combat waste, fraud and abuse in the current Medicare-Medicaid programs, I think that issue is one that is not going to go away. There are many concerns that the provisions that have been made in the House bill will lower the standard, make it more difficult to

prove the abuse and waste and fraud. I am not sure we want to go in those directions.

I think the malpractice issues have been debated earlier in the Congress. I think they ought to be addressed outside of this legislation.

We go to that conference in a bipartisan spirit, committed to trying to get this legislation—obviously they have a right to pass their bills and we have a responsibility to work through the differences—but we hope that, given the spirit with which this legislation started, both in the House and the Senate, that we will be able to do it. Every day that is delayed, there are millions of our fellow citizens who are denied the kinds of protections that this legislation will provide for them. It is an extremely important piece of legislation, in many respects I think maybe the most important piece of legislation that we will pass in this Congress.

Mr. President, I urge the passage of the legislation when the Senate votes on it this afternoon.

The PRESIDING OFFICER. Under the previous order, a vote on passage of H.R. 3103, as amended, will occur at 2:15. All time has expired.

Mrs. KASSEBAUM. Mr. President, I ask for the yeas and nays on final passage of H.R. 3103.

The yeas and nays were ordered.

Mr. PRYOR addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas is recognized for 10 minutes.

Mr. PRYOR. Mr. President, I thank the Chair for recognizing me.

Before I speak, Mr. President, on the subject that I have chosen here for the next few minutes, I compliment my colleagues from Massachusetts and Kansas for the tremendously fine work they have done in this whole field of health care over a long period of time. This, today, I think is the culmination of their sincere effort, their tedious effort, and certainly demonstrates their commitment to improving the health care available in our country. So, Mr. President, this Senator certainly congratulates these two fine Senators for their commitment and their work.

#### AT WHAT COST?

Mr. PRYOR. Mr. President, the Senate special Whitewater committee resumes its hearings tomorrow. The committee's tentative schedule is, as I understand—I am not on the committee—to have a hearing on every Tuesday, Wednesday, and Thursday of each week until the authorization of the committee expires on June 17, 1996. As I have said before, the time and money being spent by this special committee could be better spent on other issues of greater importance and magnitude to this country of ours.

Mr. President, I will take just a moment to discuss, if I might, the amount of money and the time and the resources being spent on the Whitewater investigation, both here and in my

home State of Arkansas. The Senate has called 121 witnesses during its 47 days of its special committee review. In an earlier statement, Mr. President, I mentioned the fact that in 1995 alone the Senate held 34 hearings on Whitewater, while we held only six hearings on Medicaid funding and only one hearing—only one hearing—on Medicare reform. After all the time we have already spent on Whitewater, these types of issues are far more deserving of our attention in the remainder of this session of the Congress.

However, Mr. President, it is not just the amount of time and money that the Senate has spent on the Whitewater review that concerns me. There is another side of this discussion, and it is the amount of money, the amount of resources, that our Government has spent on the issue of Whitewater.

The Senate has spent roughly \$1.35 million on its Whitewater investigation in the 104th Congress. That is just the amount that the Senate has specifically appropriated to the Whitewater review panel. This does not include, Mr. President, the money spent by the Senate Banking Committee on its Whitewater efforts. It does not include the amount of money spent by the House of Representatives in its Whitewater review.

Of course, it does not even begin to take into consideration the amount of money spent by our special counsels. In addition to the congressional efforts in this issue, I would also like to discuss the independent counsel review. According to the General Accounting Office, Robert Fiske, the special counsel originally named to investigate the Whitewater issue, spent \$2,498,744 from January 22, 1994, through September 30, 1995, which was the latest date which the GAO had this information. I am sure more tallies will be coming in soon. On his investigation alone, almost \$2.5 million was spent. Then he was fired from the case. The GAO also points out that Kenneth Starr, the independent counsel appointed to replace Mr. Fiske, has spent \$4,512,065 from August 5, 1994, through September 30, of 1995. We have no more recent figures, Mr. President, since September 30 of last year.

But today's Washington Post had an article, I must say, Mr. President, that caught my attention. It is an article which illustrates where some of this money is going. Sam Dash, the Watergate chief counsel, famed, well known, well respected, is now being paid \$3,200 a week for his service as ethics adviser to Mr. Starr. I am going to repeat that, Mr. President. Sam Dash, the Watergate chief counsel, is now being paid \$3,200 each week for his service as ethics adviser to Mr. Kenneth Starr.

Mr. Starr is the first independent counsel in the history of our Republic to see the need to hire an independent counsel that advises him on ethics.

I think I echo, Mr. President, the statement made by Stephen Gillers, a

legal ethics professor and scholar at New York University, who recently said in a Baltimore Sun article:

When the public hears that the independent counsel—who is there supposedly because of his distance from the traditional prosecutorial office—needs an independent counsel for ethics advice [at a substantial cost] it's almost impossible to explain how that can be so. The perception is that something's amiss.

Mr. President, that was Stephen Gillers, a legal ethics scholar from New York University, who made that particular statement.

Mr. President, I have other concerns as well. I have recently asked the Federal Bureau of Investigation to share with me the five top cases currently being investigated by the Federal Bureau of Investigation. Mr. President, here are the top five cases. One is the Oklahoma City bombing. That makes sense. Second, the Unabomber. That makes sense. Thriftcon—a national bank fraud and embezzlement case. Fourth, Mr. President, is Whitewater. Fifth is the World Trade Center bombing.

Now, this is based upon the number of personnel, the amount of resources, the number of dollars, and the establishment of priorities of our own Federal Bureau of Investigation. Whitewater, today, comes right after Thriftcon, Unabomber, Oklahoma City bombing, and before resources and dollars that the Federal Bureau of Investigation have used to investigate the World Trade Center bombing in the city of New York. Mr. President, I do not know how in the world we could go home and explain such a poor allocation of priorities as the one demonstrated by this particular chart.

Mr. President, the money spent by the independent counsel does not tell the whole story. Those numbers do not even include the moneys spent by the FBI and other agencies to support the independent counsels.

Under the statute authorizing the independent counsel, each independent counsel is able to request and receive assistance from Federal agencies. Mr. President, most of the independent counsels are using the talents of the Federal employees and the resources of the Federal Government available to them. According to the figures supplied by GAO, the IRS has spent over \$1 million to support the Fiske-Starr Whitewater investigation. The Justice Department, apart from the FBI, has spent \$86,000 on the investigation. However, Mr. President, the FBI has spent far and away the most money of any agency working for Mr. Fiske, the former independent counsel, and Mr. Starr, the present independent counsel.

According to the numbers reported by the GAO, the FBI spent \$3,473,000 in support of Mr. Fiske's investigation, and already has surpassed \$8,064,000 supplying staff for Mr. Starr's investigation. To get a sense of what these figures mean, Mr. President, I asked the FBI how many people that number represents. They told me that the \$11.5

million represents 41 special agents and 81 support staff.

Thus far, I know I have thrown around a lot of numbers and my time has expired. When we add everything together, the Whitewater independent counsels have spent \$19,673,809. Mr. President, almost \$20 million, in less than a year and a half, has been spent on the Whitewater investigation. That, Mr. President, is why I continue to have grave concerns about appropriating any more money to start up the second phase of the Whitewater investigation.

Mr. President, I ask unanimous consent to have printed in the RECORD a story in this morning's Washington Post, dated April 23, 1996, and I ask unanimous consent to have printed in the RECORD an article of April 15, 1996, as published in the Baltimore Sun.

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

[From the Washington Post, Apr. 23, 1996]

SAIT IT AGAIN, SAM

(By Lloyd Grove)

He's the brilliant chief counsel of Senate Watergate Committee fame and a drafter of the independent counsel statute. He's an arbiter of professional conduct for the American Bar Association and an oracle of criminal law, an internationally acclaimed advocate for human rights and a widely revered guru of legal ethics.

But it seems to have come to this for the distinguished Samuel Dash:

"I don't want to be in a situation where you're asking me a lot of questions and I'm not commenting, and the story makes me look like a Mafia figure who's pleading the Fifth Amendment," says Dash, 71. He is beginning an interview about his role as the highly paid ethics adviser to Kenneth Starr, the Whitewater special prosecutor whose own legal ethics come under searing attack. "Mafia figure?"

Surely Sam Dash not has not worked so hard, for so long, to take a swift tumble from wise man to wiseguy. He has spent much of his time in recent weeks mounting pained public defenses of Starr's simultaneous work as a government prosecutor—investigating President Clinton & Co.—and as a private lawyer for an array of corporate clients opposed to the president's policies. But Dash certainly hasn't cultivated his enviable reputation to sell his birthright for a mess of pottage—in this case, a consulting fee of \$3,200 a week.

In his memo-strewn office at the Georgetown University Law Center, where he has been a full professor for the last three decades, Dash expresses himself in bursts of nervous energy, interrupting his questioner—and frequently himself—to spray fusillades of self-protective verbiage and twist his winding sentences into word-pretzels.

"Once again, I do not want to do an interview," he protests. "It isn't that I haven't been available for interviews. I have. I've helped set a policy now—not because there's anything to hide. I think [Starr's] office has become very visible as a result of these issues, and they have so much important work to do, it's all distracting the work to always—even when they to read about what I may be saying—it distracts the work and calls for [phone] calls and things like that, but I don't want, I really don't want to be distracting anymore."

Dash, whose regular public statements about the work of the special prosecutor

have made him something of a de facto spokesman for the press-averse Starr, is providing more than his share of distractions. In the past few weeks, he has been forced to justify his recently revealed consulting fee—astronomical by government standards. And he has been caught defending Starr's behavior while, at the same time, appearing to criticize it in publications ranging from the New York Observer (with which he has tangled over the accuracy of damaging quotes) to the New Yorker.

He may have had enough of the hot seat. Dash says he'll suspend his Starr consultancy as of May 23, to spend two months on a long-planned teaching vacation in Europe. He won't commit himself to returning to Starr's employ. "If Ken asks me, I'll consider it," is as far as he'll go.

Dash presents himself as a man who wants, in so many words, to have and eat his cake.

He was cited by the New Yorker's Jane Mayer as giving his seal of approval to Starr's pursuit of a million-dollar private practice—even though he wished Starr wouldn't do it: "If I had my own preferences, I'd hope he'd be a full-time independent counsel. . . . What he's doing is proper. . . . But it does have an odor to it."

Dash explains that what he actually meant to say is that others, but not he, might detect an odor—as though recusing his sense of smell. Trying to move away from another published statement, he says, with an insistence on precision: "I didn't use the word 'proper.' 'Proper' is a weasel word. I think what I tried to say—and maybe I misstated—is everything he's doing is 'legal' and 'ethical' and 'lawful'—not 'proper.'"

On the issue of whether he wants Starr to be a full-time prosecutor, Dash is equally microscopic. "I didn't say, 'I wish he would be.' I say: 'I prefer he would be.' No, no, no: 'My preference is . . .'"

Why the hair-splitting? Isn't it all the same thing?

"It is essentially the same thing," he concedes with a deep breath. "I'm not trying to split hairs. All I'm saying is, I am expressing myself as an independent person. I'm not saying I would do the same thing he would do." Yet a moment later Dash draws another fine distinction. "I'm not passing on his judgment. I don't think I have the right to. If I were a private independent professor . . . I could speak freely my mind. But—"

Wait a minute. So he's not independent?

"I may be constrained, but I'm only constrained because when I speak I can't speak as Sam Dash, private [citizen]. I am speaking as Sam Dash in the role of ethics counsel to Ken Starr and the office. Therefore, I don't have a right . . . to express judgments which I could have as an independent person. I don't even know why it's relevant."

Does Dash at least know the identity of all Starr's private clients?

"I'm not sure," he says. "The relationship isn't one in which, like coming to Mommy, he has to tell me. 'Can I do this? Can I do that? . . . He has to bring to my attention any situation that he feels could possibly be considered a problem. I would think as a lawyer, and he's been a federal judge, he's been a solicitor general, with his reputation for integrity—and he does have it—that he doesn't have to come to me initially. His first screen is himself.'"

In the New Yorker, Dash bemoaned the dismissal of Robert Fiske, Starr's predecessor as Whitewater prosecutor. (Dash went to work for Starr in the fall of 1994, initially for a weekly fee of \$1,600, long after Fiske was gone.) "Should Fiske have been reappointed? My answer is probably yes," Dash mused to the magazine. "It may have been a mistake" to remove him. "But that's not Ken's fault."

A month after signing him up, Starr doubled Dash's compensation (billed as eight

hours of work a week at \$400 per hour). And he broadened his role from simply ethics to advising on prosecutorial strategy and a host of other issues. The money is clearly a sore spot for Dash.

"I'm putting in not eight hours, I'm putting in 20 to 30 hours," he says. "If one were to take what I'm being paid and divided it into the hours I'm working, I'm being paid at what a paralegal earns in most law firms"—a debatable claim, to be sure.

Last Wednesday, Dash had the novel (for him) experience of receiving a hard editorial slap from the New York Times. The paper demanded that Starr give up the "major national responsibility" of Whitewater prosecutor because of his "conspicuously fastpaced and politically freighted private practice," and added sharply: "Mr. Dash is right about the odor, but wrong about the propriety."

"I'll just say this to that," Dash says dismissively. "I testify all over the country as an expert [on legal ethics], and judges ask me about the law and I answer. I don't recall a single time when any judge of a federal court or a state court ever asked me: 'What does the New York Times think?'"

He displays less equanimity when it comes to other critics, such as Democratic spinmeister James Carville—the public voice of the White House's energetic campaign to undermine Starr's integrity as the Whitewater special prosecutor.

"If Sam Dash was my doctor, I'd be happy," Carville says. "If you wanna smoke, fine. High blood pressure? Fine. Eat a lot of steaks and drink some whiskey! Go ahead, I'm not worried. He's the Alfred E. Neuman of ethics counselors. he doesn't worry about anything."

"What does he know?" Dash demands with a frown. "He doesn't know what I'm doing, he doesn't know who I am. Maybe he does know who I am. But he actually should be very grateful that I am in this position—that at least somebody like me is doing this. . . . But by challenging my independence and the professional role I play, he in effect is harming his own partisan interests. And I'm not a partisan and my role is not to protect anybody, but it certainly is to see that this prosecution is conducted fairly and objectively without any political overtones to it."

But that is quite impossible. The Starr matter has become intensely political—for Rep. Martin Meehan (D-Mass.), a harsh critic of Starr, the political overtones are all but deafening. "I thought it was a good political move by Starr to pick Sam Dash, with his outstanding reputation. . . . Clearly his role is to provide advice to Mr. Starr, and that advice is interpreting technically the basis upon which Starr can justify his representing a tobacco company and other clients. And Mr. Dash makes statements giving technical, legal interpretations on why it's okay."

New York University Law School Professor Stephen Gillers agrees.

"I think Starr was wise, even brilliant, to choose Sam Dash, because of Sam's prestige and credibility with the media. That has given Starr some cover, which actually worked for a while to stave off criticism. But Sam Dash has no cover. Sam is exposed in ways that I don't think he fully could have anticipated."

Harvard Law School Professor Lawrence Tribe is also concerned about Dash's exposure. "I would not have agreed to play that role," he says. "I would feel ethically compromised. Providing legal consultation and trying to make legal arguments on behalf of the independent counsel is one thing. But I wouldn't want in effect to be allowing my reputation to be used as a shield for someone whose circumstances, in the end, I don't

have the ability to influence. That would make me feel extremely uncomfortable."

Dash insists that such worries are misplaced.

"I'm not giving Ken Starr my reputation," he says. "I'm giving him my expertise."

He adds that Starr and others in the prosecutor's office are following his advice. And Washington lawyer Abbe Lowell, a longtime acquaintance, finds this claim persuasive.

"Sam Dash isn't a shrinking violet," Lowell says. "He wouldn't have gotten involved in this if he didn't think he could have an important impact. To say he's a fig leaf for Ken Starr does an injustice to Sam Dash."

For his part, Dash sees his current preoccupation as a fitting capstone to a career in which he has been, by turns, the district attorney in Philadelphia, a hero of Watergate, a legal theoretician and international human rights activist, the first American citizen to visit Nelson Mandela in a South African jail.

"I'm not a stranger to controversy," Dash says. "And I don't want to look like I run away from it. I think Harry Truman's statement was correct: If you can't stand the heat, get out of the kitchen. I like being in the kitchen."

But the Cuisinart?

[From the Baltimore Sun, Apr. 15, 1996]

ETHICS INSURANCE AT \$3,200 A WEEK;  
WHITWATER COUNSEL'S ADVISER ASSUMES  
A LARGER ROLE IN PROBE

(By Susan Baer)

WASHINGTON—Samuel Dash, the celebrated lawyer who was hired by Whitewater independent counsel Kenneth W. Starr in 1994 to advise him on ethics issues, is now playing a much broader role in the investigation—and collecting a sizable government-paid fee for his services.

Mr. Dash said that while Mr. Starr hired him to work on ethics questions, he is now weighing in on everything from prosecutorial strategy to dealing with witnesses.

"He's asked me to go beyond ethics issues," said Mr. Dash, a 71-year-old full-time law professor at Georgetown University who gained fame as chief counsel to the Senate Watergate Committee.

For his part-time services—which include advising Mr. Starr on how much of his \$1 million-a-year private law practice he may retain while leading the government's Whitewater investigation—Mr. Dash is paid a flat fee of \$3,200 a week.

The professor, whose pay was raised by Mr. Starr from \$1,600 a week in July, said he works an average of 20 hours a week, sometimes up to 30 hours, for the Whitewater prosecutor, but is charging Mr. Starr for only eight hours a week, at his regular consulting rate of \$400 an hour.

"This is pro bono," Mr. Dash said with a laugh, referring to the public-interest work lawyers do for no pay.

When it was suggested to him that only by superlawyer standards would \$3,200 a week be considered "pro bono," he said, with apologies for immodesty, "People of my stature charge way more than I do."

Mr. Dash, whose Whitewater pay was disclosed recently by the Arkansas Times, was hired by Mr. Starr in October 1994, two months after Mr. Starr was chosen to head the inquiry, which reaches up to the Clinton presidency.

A highly respected lawyer and a Democrat, Mr. Dash was retained to calm concerns about Mr. Starr's impartiality, given his background as an active and partisan Republican, and his selection by judges with ties to conservative Republicans.

In the 1970s, Mr. Dash assisted Chief Justice Warren E. Burger in devising the Amer-

ican Bar Association's ethical standards for prosecutors and criminal defense lawyers.

Mr. Dash, who also helped draft the law that established the independent counsel's office, noted that he is the first person to be an outside ethics adviser to an independent counsel.

"This is somewhat unique," Mr. Dash said. "Starr felt when he was appointed, fairly or unfairly, there was quite a bit of criticism because he was a partisan Republican. There was some concern, at the White House and other places, that he may not be objective."

"My personal belief is he didn't need me. But he was thinking of perception problems. He thought it was proper, to preserve public confidence, to bring someone like me in. He felt he needed somebody to assure the public that his decisions are being made on the basis of the right judgments."

Mr. Dash's weekly fee would amount to an annual rate of about \$160,000 a year. But officials with Mr. Starr's office have said he won't receive that much because they are applying to Mr. Dash, an independent contractor, the same salary cap of \$115,700 that applies to employees of the independent counsel's office. So far, Mr. Dash has been paid \$147,200 for the 16 months he has worked for Mr. Starr.

Many lawyers believe the hiring of Mr. Dash was a masterful strategic move by Mr. Starr, insulating him from political-bias charges by having a prominent Democrat look over his shoulder each step of the way.

But some have questioned the need for such a sizable expense, given that an independent counsel is hired precisely because of his or her ostensible impartiality.

Lawrence E. Walsh, the independent counsel in the Iran-contra case, said he thought it was "regrettable" that such an expense must be incurred to ensure the perception of objectivity.

#### A DEFENSIVE MEASURE

"It's really a defensive measure," said Mr. Walsh, a Republican former federal judge. "But the question is, why do you get in a position where you have to defend yourself? The real thing [an independent counsel] brings that nobody else can bring is his independence. That's the excuse for this very expensive procedure."

Mr. Walsh said that during the Iran-contra investigation, he sought the help of Laurence Tribe, a Harvard law professor, for ethics concerns about the publication of his final report. But, he said, Mr. Tribe did not accept a fee.

Stephen Gillers, a professor of legal ethics at New York University who was critical of Mr. Starr's appointment because of his history as an outspoken Republican, said he thought such a six-figure expense could be damaging.

"When the public hears that the independent counsel—who is there supposedly because of his distance from the traditional prosecutorial office—needs an independent counsel for ethics advice [at a substantial cost], it's almost impossible to explain how that can be so," Mr. Gillers said. "The perception is that something's amiss."

Mr. Starr did not respond to questions, submitted to him in writing, regarding Mr. Dash's role and pay.

Terry Eastland, author of a book on independent counsels, said he did not consider the expense for an ethics consultant unreasonable. "Lawyers are expensive," he said.

And other ethics consultants say \$400 an hour is reasonable for top-level experts, although they also say they bill far less—and occasionally, nothing—if the government is the client.

Geoffrey C. Hazard Jr., a University of Pennsylvania law professor and ethics consultant, called Mr. Dash's fee as a part-time adviser "pretty high pay." But, he added,

"The value of having somebody just a little bit more credible is very high."

So far, the independent counsel's Whitewater inquiry has cost about \$26 million. Mr. Starr is spending about \$1 million a month on the investigation.

Mr. Dash said he may suspend his involvement this summer, when he plans to serve as a visiting professor at the University of Heidelberg Law School in Germany.

For now, Mr. Dash said, his work for the Whitewater office includes such activities as advising Mr. Starr on whether there is enough evidence to sustain a charge, reviewing all cases referred to the grand jury, and consulting on issues of fairness.

For example, when false reports surfaced that Gov. Jim Guy Tucker of Arkansas had sought a plea bargain after being indicted, Mr. Starr asked Mr. Dash for advice on whether the usual policy of issuing a "no comment" to questions about the case should be followed, according to Mr. Dash.

The ethics counselor advised Mr. Starr that the more proper response, in fairness to Mr. Tucker, was to issue a statement denying the accuracy of the reports.

Mr. Dash has also been advising Mr. Starr on the propriety of the private work he has continued to do. Critics have charged that Mr. Starr, who earned \$1.1 million in private practice in 1994, is spending too much time on lucrative high-profile cases for his firm, some of which could compromise—or appear to compromise—his independence as special counsel.

For instance, Mr. Starr has argued a federal appeals case on behalf of the Brown & Williamson Tobacco Corp., and has represented Gov. Tommy G. Thompson of Wisconsin, a potential Republican vice presidential nominee, in school-voucher case before the Wisconsin Supreme Court.

#### CONFLICT OF INTEREST ALLEGED

Rep. Martin Meehan, a Massachusetts Democrat, wrote to Mr. Starr last week, imploring him to end his representation of the tobacco company on the ground that it created a conflict of interest because President Clinton has been an opponent of big tobacco.

A potential problem area—cited by those who believe Mr. Starr should have taken a leave from his law firm, the Chicago-based Kirkland & Ellis—is a lawsuit filed against the firm by the Resolution Trust Corp., a federal agency that figures prominently in the Whitewater affair.

Defending his private work, Mr. Starr, in an address last week in San Antonio, said: "My ethics counselor is Professor Sam Dash of Georgetown University, legend of Watergate fame, and he has affirmed that it's completely appropriate."

Mr. Dash said that while he has advised Mr. Starr that there is nothing wrong, legally or ethically, with his outside work, his own "preference"—"because of questions reasonable people ask" about conflicts—is that Mr. Starr not take on as much.

"I have discussed with him that he should take heed, and I think he will take heed," Mr. Dash said. "He is concerned. But he doesn't think he's doing anything wrong. I tell him he's not doing anything wrong."

Richard Ben-Veniste, the Democratic counsel for the Senate Whitewater Committee who was an assistant to the Watergate special prosecutor, said Mr. Starr's full plate of outside work illustrates the need for Mr. Dash's services.

"Given the list of things Mr. Starr is engaged in outside of his job as independent counsel, he's kept Mr. Dash pretty busy," Mr. Ben-Veniste said.

"I think Sam's earning his money."

Mr. LEAHY. Will the Senator yield?

Mr. PRYOR. I am happy to yield to the Senator.

Mr. LEAHY. Mr. President, I heard the distinguished Senator from Arkansas say something that struck me. All this money that is being spent is taxpayers' money?

Mr. PRYOR. Every bit is taxpayers' money.

Mr. LEAHY. I have been reading a number of articles in the national press raising some very serious questions about the appearance of conflict of interest on the part of Mr. Starr, the special prosecutor. As a former prosecutor myself, I feel strongly that there is at the very least an appearance of a conflict of interest. But notwithstanding what appears to be conflict of interest, are you telling me that he is paying somebody out of tax money, on a part-time basis, the equivalent of about \$160,000 a year to give him ethical advice?

Mr. PRYOR. This is the first time, I answer my friend from Vermont, in the history of all of the legal independent counsels that we have had, that an independent counsel has felt the necessity of retaining an ethics attorney or an ethics adviser. In this one, the taxpayers are paying \$3,200 each week. I imagine that is more than a member—I do not know what a member of the Supreme Court gets.

Mr. LEAHY. A member of a Supreme Court who works full time is paid less. The attorney retained as the ethics adviser is, I realize, a wonderful man and a good friend of mine, but this is extraordinary—this ethics adviser is paid on a part-time basis with taxpayer money?

Mr. PRYOR. That is correct. He is a fine law professor. Mr. Starr gave him this job in order to advise Mr. Starr on ethics. I do not know one time yet that Mr. Dash has not told Mr. Starr what he was doing was OK, including making \$1.3 million last year.

#### RECESS

The PRESIDING OFFICER. Under the previous order, vote on passage of H.R. 3103 will occur at 2:15.

Under the previous order, the Senate will now stand in recess until the hour of 2:15 p.m.

Thereupon, the Senate, at 12:47 p.m., recessed until 2:15 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Ms. SNOWE].

#### HEALTH INSURANCE REFORM ACT

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. Under the previous order, the Senate will now vote on H.R. 3103. The yeas and nays have been ordered.

The clerk will call the roll.

The legislative clerk called the roll.

The result was announced—yeas 100, nays 0, as follows:

[Rollcall Vote No. 78 Leg.]

YEAS—100

Abraham	Feinstein	Mack
Akaka	Ford	McCain
Ashcroft	Frist	McConnell
Baucus	Glenn	Mikulski
Bennett	Gorton	Moseley-Braun
Biden	Graham	Moynihan
Bingaman	Gramm	Murkowski
Bond	Grams	Murray
Boxer	Grassley	Nickles
Bradley	Gregg	Nunn
Breaux	Harkin	Pell
Brown	Hatch	Pressler
Bryan	Hatfield	Pryor
Bumpers	Heflin	Reid
Burns	Helms	Robb
Byrd	Hollings	Rockefeller
Campbell	Hutchison	Roth
Chafee	Inhofe	Santorum
Coats	Inouye	Sarbanes
Cochran	Jeffords	Shelby
Cohen	Johnston	Simon
Conrad	Kassebaum	Simpson
Coverdell	Kempthorne	Smith
Craig	Kennedy	Snowe
D'Amato	Kerrey	Specter
Daschle	Kerry	Stevens
DeWine	Kohl	Thomas
Dodd	Kyl	Thompson
Dole	Lautenberg	Thurmond
Domenici	Leahy	Warner
Dorgan	Levin	Wellstone
Exon	Lieberman	Wyden
Faircloth	Lott	
Feingold	Lugar	

So the bill (H.R. 3103), as amended, was passed, as follows:

*Resolved*, That the bill from the House of Representatives (H.R. 3103) entitled "An Act to amend the Internal Revenue Code of 1986 to improve portability and continuity of health insurance coverage in the group and individual markets, to combat waste, fraud, and abuse in health insurance and health care delivery, to promote the use of medical savings accounts, to improve access to long-term care services and coverage, to simplify the administration of health insurance, and for other purposes", do pass with the following amendment:

Strike out all after the enacting clause and insert:

#### SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) *SHORT TITLE*.—This Act may be cited as the "Health Insurance Reform Act of 1996".

(b) *TABLE OF CONTENTS*.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

Sec. 2. Definitions.

#### TITLE I—HEALTH CARE ACCESS, PORTABILITY, AND RENEWABILITY

##### Subtitle A—Group Market Rules

Sec. 101. Guaranteed availability of health coverage.

Sec. 102. Guaranteed renewability of health coverage.

Sec. 103. Portability of health coverage and limitation on preexisting condition exclusions.

Sec. 104. Special enrollment periods.

Sec. 105. Disclosure of information.

##### Subtitle B—Individual Market Rules

Sec. 110. Individual health plan portability.

Sec. 111. Guaranteed renewability of individual health coverage.

Sec. 112. State flexibility in individual market reforms.

Sec. 113. Definition.

##### Subtitle C—COBRA Clarifications

Sec. 121. COBRA clarifications.

##### Subtitle D—Private Health Plan Purchasing Cooperatives

Sec. 131. Private health plan purchasing cooperatives.

#### TITLE II—APPLICATION AND ENFORCEMENT OF STANDARDS

Sec. 201. Applicability.

Sec. 202. Enforcement of standards.