

Mr. President, I do not know Susan McDougal, and I confess I do not know a great deal about the Whitewater case. In many respects I rose today on the Senate floor to speak to neither, but to talk about justice. This is a barbaric set of circumstances that are indefensible and give rise to the question of whether or not Mr. Starr's investigation is being led by someone who seeks justice or is driven on the personal destruction of individuals to vindicate himself and his own investigation.

Mrs. McDougal is not imprisoned for murder or robbery or any violent offense. She has faced no jury and is convicted of nothing. But for almost a year, she has been held on civil contempt.

The Federal courts have ruled on a variety of circumstances, including in 1983 in the Sanchez case, and in 1984 in the Simkin v. United States case that a court is obligated to release an individual if it becomes clear that she will not testify after continued confinement.

Indeed, in case after case throughout the history of this country judges have released individuals who have refused to testify after 6 or 8 months of imprisonment.

Susan McDougal has now been imprisoned for 10 months. There is no indication that it will end soon. And it clearly is not going to result in her giving credible testimony.

Indeed, it was argued before a Federal judge 2 weeks ago that not only is Susan McDougal's incarceration inhumane, it is counterproductive.

If Susan McDougal were released from these extraordinary barbaric circumstances tomorrow, her testimony in the Whitewater case would be of absolutely no value. Her testimony would have no credibility. It clearly would have been coerced. No grand jury, no judge, and no jury would give it any validity.

Her testimony is now useless. Any individual held in solitary confinement with no privacy, with no ability to consult with family or friends, denied access to a chaplain, shackled hand and foot, subjected to body searches, awakened during the night every 20 minutes, in some circumstances by a flashlight in her eyes, could not possibly at this point be giving voluntary testimony that would be usable in a court of law.

Mr. President, Kenneth Starr should pursue the facts. If they produce further evidence that allows a case to proceed, it is his duty to do so. It is the obligation of every officer of this Government, in any of its branches, to first and foremost, however, pursue justice.

Former Senator William Cohen, then a Member of this institution, said, "The appearance of justice is just as important as justice itself in terms of maintaining public confidence in our judicial system."

Mr. President, there is no confidence in our judicial system that can come from these facts. There is a cold tyranny on a single American citizen. It is

time for the Federal judiciary to intervene to bring justice and to change the circumstances of Susan McDougal's life.

I yield the floor.

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

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

Under the previous order, the Senator is recognized for 20 minutes.

Mr. DORGAN. Mr. President, I ask unanimous consent that morning business be extended to accommodate 20 minutes.

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

WHO GETS THE BENEFIT OF A TAX CUT?

Mr. DORGAN. Mr. President, I want to talk today about a debate that is going on in a conference committee on who gets what portion of the tax cut that is now proposed by the Congress. It is, I suppose, a debate that one would expect if the Congress decides there shall be a tax cut, and the Congress has decided that taxes shall be reduced in some measure for the American people.

The obvious question is, for whom and for how much? Who gets the benefit of the tax cut?

We had a generous discussion on the floor of the Senate with an enormous amount of data and charts, with each side demonstrating that it is right and the other side is wrong, and each side using economists and all of the research groups that say this side is right, that side is wrong, or that side is right, this side is wrong. I suspect people watching this do not have the foggiest understanding of how you manufacture all these numbers. It is like making sausage, I assume—somebody over there, huddled over a bowl, is throwing all kinds of things in a bowl, and they grind it out and say, "Here's our sausage."

I come from a farm State, so I suppose I talk a lot about agriculture. I was thinking about an old story that a fellow in my hometown told me years ago about the chicken and the pig. It reminds me a little of this debate about the tax issue, who gets what. A chicken and a pig were prancing around the farmyard and they were talking about the upcoming birthday for the farmer and deciding what they would give the farmer for his birthday. The chicken said, "Why don't we give him ham and eggs," and the pig thought about that for a long time, and said, "Well, gee, for you, that's terrific, because for you that's just a contribution, but for me that requires real commitment."

Well, commitment or contribution, this is the kind of chicken-and-pig issue on who gets what in the Tax Code, who contributes what taxes in this country.

I want to talk just for a moment today about this commitment or contribution issue, and when it comes time to providing tax relief, then who gets some help. There is a discussion in this Congress that occurs almost every year around something called tax freedom day. The Tax Foundation, in fact, puts out a little publication. This year it was May 9, I believe, and it says tax freedom day is May 9. We have someone dutifully coming to the floor, and they hold it up and say, "Here is the day in which we are free. Up until this day, all of the things we earn have to go to pay taxes, and beyond this day we are free."

It has always been curious to me that the amount of money I pay for my children to go to school is somehow considered a burden. It is not to me. I consider it an opportunity to put my kids in a good public school system, and the taxes I pay to help that public school system is not a burden to me. But some people feel every dollar they pay is an enormous burden and a waste. They say, "Here is tax freedom day, May 9, this year." When they talk about tax freedom day, the same people that come to the floor and do that say tax freedom day is the accumulation of taxes that people have to pay, including income taxes and payroll taxes. And, incidentally, payroll taxes are a big chunk of the taxes people have to pay in this country. When they talk about tax freedom day, they include payroll taxes.

When they talk about who gets what in terms of tax cuts, guess what happens? The Congress then says we are only going to measure income taxes. We are only going to measure the income taxes you pay, and that is the basis on which you get a tax cut. So you have a situation in this country where over two-thirds of the American people now pay a higher payroll tax than they pay in income tax. Two-thirds of the American people pay higher payroll taxes than income taxes. Payroll taxes have grown, and rather substantially.

So when it comes time to give a tax cut, we are told that the tax cut shall go to people based on the income taxes they pay, and if you don't pay substantial enough income taxes, you do not get a tax cut.

Some of us feel that the working families toward the bottom of the ladder, those working families somewhere between the 50th percentile and down who are paying more in payroll taxes than income taxes, they are working, they are paying taxes. It is a different kind of tax—payroll tax—they ought to get a tax cut, as well.

Here is the dilemma. We have a tax cut that is proposed in part of this package that is a per child tax credit of \$500, and we are told that the per child

tax credit will go to only those people who pay enough income taxes to earn the credit. What does that mean? It means 4 million to 6 million American kids will not get a per child tax credit, despite the fact their folks are working and their folks are paying substantial payroll taxes, sufficient payroll taxes to earn this tax credit. But they will be denied any tax benefit under this plan because they pay payroll taxes and not enough income tax.

Why is it their fault? Because they are not earning enough money, they are at the bottom of the economic ladder. They are told in this plan, payroll taxes don't count. So, therefore, these 4 to 6 million children, the parents of those children, are not going to get a tax cut, because they only work and they only pay payroll taxes. That makes no sense at all. It does not make any sense.

Why would we prevent the parents of 4 to 6 million children, the parents of those 4 to 6 million children who are working, from getting a tax credit of \$500 per child, as all other Americans will get?

We were told last week by a Member of the majority who believes we should not provide a child tax credit to those people who are working and paying payroll taxes, that if we did, it would be welfare. Why welfare? These are people who are working, these are people who are paying taxes, and these are people who also deserve a tax cut.

It is always interesting to me that every time we talk about a tax cut in this Chamber, if you get way into the upper end of the income scale—an area, incidentally, where they have had enormous increases in income—that somehow the most generous portions of the tax cut always go to those folks.

I want to read some information that was in a piece yesterday in the Washington Post about what has happened to incomes in this country. According to the Congressional Budget Office, the Americans in the bottom one-fifth of the income distribution, the lowest 20 percent of income earners in the work force, saw their after-tax incomes drop by 16 percent between 1997 and 1994. When you adjust all that for inflation, they have 16 percent less purchasing power in a 20-year period. The next-to-the-bottom fifth lost 8 percent. The middle fifth stayed about even.

The members of the wealthiest 20 percent saw their incomes rise by 25 percent, and the top 1 percent of the income earners in this country in the same 20-year period saw their income rise in real terms by 72 percent. So if you look at who has benefited substantially in the last 20 years, you conclude that the top 20 percent of income earners, especially the top 1 percent, have benefited enormously.

Why is it, then, when we talk about providing tax cuts, that we say to those who have not benefited at all, those who are in the work force who have not received any substantial increase in income, in fact, who have lost

ground, we say to them, "You are working, you are paying taxes, but we're sorry, you don't get a tax cut." What kind of logic is that? This does not make any sense to me.

I will read a couple of other things that have been written recently. Today, in the Washington Post, with respect to this debate about who is providing what benefit to which income group in this country, the Washington Post editorial says:

The Republicans have written a tax bill tilted heavily toward the better-off * * *

The Republicans in turn have adopted a new technique. Rather than argue as they might have done in the past about the virtues of the bill, they engage in distortion.

They are talking now about the numbers that are bantered back and forth.

The people who wrote this bill aren't defending its distributional consequences; they're denying them. The plain facts are that the bill over time would not just mainly benefit the better-off but would cost the government revenues it can't afford.

I want to talk about this issue of better off, however, because if we have a proposal passed by both the House and the Senate to reduce the tax burden in this country, it seems to me it ought to be targeted to those families who have faced an increasing tax burden.

Which taxes have increased in recent years in this country? Does anybody know the answer to that? Which taxes have increased? I guess most people would say the payroll taxes, and they would be right.

Payroll taxes in the last decade have increased, increased again, and increased again. The income tax rates have come down, except for one circumstance. But the payroll taxes have increased.

So the result is, when the discussion of the Congress is about giving a tax cut, I think we ought to talk about providing tax relief to those who are paying higher payroll taxes. But some say they want to prevent those people who are paying higher payroll taxes from receiving any of the significant benefits of the tax cut. Frankly, that is just wrong.

The piece in the Washington Post, written by E.J. Dionne, called "The Tax War," is an interesting piece that appeared a day or two ago, and it says the following:

The Republicans are missing a chance to make their best case for a tax cut. For years, they argued that government should not tax people into poverty or make life tougher for the pressed middle class. They were right about this, especially since regressive payroll taxes take a much bigger chunk from the incomes of the middle class and the working poor than from the wealthy.

That's why it is incomprehensible that Republicans have so fiercely resisted Clinton's proposal to give the \$500-per-child tax credit to families who owe no income taxes but pay substantial payroll taxes. Most of these families earn roughly \$17,000 to \$30,000 a year.

People at the middle and bottom of the income strata need tax relief for another reason: For nearly two decades—until the last 2 or 3 years of the current economic recovery—they have lost ground or barely kept up.

Now, the point I come to the floor today to make is this. We are in conference between the House and the Senate on the question of what kind of tax cut and who receives the benefits of this tax cut. The chart I have here shows the percentage of working families in this country whose payroll taxes exceed their income taxes. You will see this by quintile.

The bottom fifth, 99 percent of them, pay more payroll taxes than income tax. These are people who work. They get up every day, go to work, work hard, try to take care of their families. The second quintile, 97 percent, pay more in payroll taxes than they do in income tax, and right on down, until you get to the top fifth, and they pay 16 percent in payroll taxes. Sixteen percent have payroll taxes that exceed their income tax.

You can see the import of this chart. It shows the folks in the bottom 60 percent of the income strata in this country who are out working, are paying higher payroll taxes than income taxes. Any proposal that says that does not count, that does not matter, the payroll taxes you pay are not part of our concern, is just plain wrong.

Now, we have an opportunity to fix it, and we can fix it in this conference committee. The House and the Senate conferees can decide to consider payroll taxes paid as a measurement against who gets the \$500 child tax credit. They can do that. Some don't want to do it because it means they will not be able to get their special little deal in the Tax Code. They have lots of special trunks in cases that have been put in this bill. Some want to have their special deal, so they don't want to do this because it costs money.

If you want a fair tax cut and you want to be fair to working Americans and working families, you must say to those out there in the work force, "We will give a tax cut based on a \$500-per-child tax credit and we will measure it against the taxes you pay—all taxes, including payroll taxes." The failure to do that means that this Congress is not doing right by middle-income families. This Congress is not doing right by nearly 4 million to 6 million children and the parents of those children who will be denied a reduction in their taxes only because the taxes they paid, the higher taxes they paid, were payroll taxes rather than income taxes.

So we have an opportunity to do this right. Most people look at the Congress and they think, if you cut taxes, guess what Congress will do? It will cut tax and give people at the higher income levels, at the upper end, the biggest tax cut.

Congress has two ways of doing things. It deals with cakes and crumbs. The folks at the bottom get the crumbs and the folks at the top get the cake with lighted candles on it. That is the way people think Congress behaves because too often that is the way they do behave. We have an opportunity in constructing a tax bill in this conference

to do it the right way, which would be to say to all Americans we are going to give a \$500-per-child tax credit, which the Republicans proposed and which the President proposed, which the Democrats and Republicans voted for, but that tax credit will not be denied the people just because they paid a payroll tax rather than an income tax.

This conference in the next couple of days can do this right or it can do it wrong. I hope they will listen to the voices of some in this country who say, if you are going to give a tax cut, pay some attention to the needs of the middle-income earners in this country who deserve a tax cut, yes, based on income taxes paid, but also based on the higher sales tax they pay every day as they go to work and work hard to support their families.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. HUTCHINSON). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MCCONNELL. 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. MCCONNELL. Mr. President, what is the pending business?

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

FOREIGN OPERATIONS, EXPORT FINANCING, AND RELATED PROGRAMS APPROPRIATIONS ACT, 1998

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of S. 955, making appropriations for foreign operations, export financing, related programs for the fiscal year ending September 30, 1998, and for other purposes.

The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 955) making appropriations for foreign operations, export financing, related programs for the fiscal year ending September 30, 1998, and for other purposes.

The Senate proceeded to consider the bill.

Mr. MCCONNELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky is recognized.

Mr. MCCONNELL. Mr. President, my friend and colleague, Senator LEAHY, the ranking Democrat on the subcommittee, is detained down at the White House for the time being. I see his colleague, Senator DORGAN, standing in for him. We will, while Senator DORGAN is here, by mutual agreement, take care of several managers' amendments here at the outset of the discussion of this year's foreign operations bill.

There are a list of eight managers' amendments, which I will refer to and then send to the desk en bloc.

There is the McConnell-Leahy amendment requiring a report on the management of the Russia enterprise fund and prohibiting establishment of a private-public entity to manage the defense enterprise fund activities; a Leahy amendment establishing credit authority for AID; a Leahy amendment allowing funds to be transferred to the Export-Import Bank for NIS activities; a Leahy technical corrections amendment to section 571; a McConnell-Leahy amendment providing authorities to DSAA for the costs associated with the transfer of EDA to Central and East European countries and use of less expensive commercial transport and stockpiles in Thailand and Korea; a McConnell-Leahy amendment providing DSAA authority to obligate funds upon apportionment; a McConnell-Leahy amendment to provide a date for the report on Ukraine; and a Leahy amendment with a technical change on page 92.

AMENDMENTS NOS. 876 THROUGH 883, EN BLOC

Mr. MCCONNELL. Mr. President, I send eight amendments to the desk and ask that they be considered en bloc.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Kentucky [Mr. MCCONNELL], proposes amendments numbered 876 through 883, en bloc.

The amendments are as follows:

AMENDMENT NO. 876

(Purpose: To improve the performance of enterprise funds)

On page 27, line 15 insert the following new sections:

(Q) None of the funds appropriated under this heading or in prior appropriations legislation may be made available to establish a joint public-private entity or organization engaged in the management of activities or projects supported by the Defense Enterprise Fund.

(R) 60 days after the date of enactment of this Act, the Administrator of AID shall report to the Committees on Appropriations on the rate of obligation and risk and anticipated returns associated with commitments made by the U.S. Russia Investment Fund. The report shall include a recommendation on the continued relevance and advisability of the initial planned life of project commitment.

AMENDMENT NO. 877

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

DEVELOPMENT CREDIT AUTHORITY

For the cost, as defined in section 502 of the Congressional Budget Act of 1974, of direct loans and loan guarantees in support of the development objectives of the Foreign Assistance Act of 1961 (FAA), up to \$10,000,000, which amount may be derived by transfer from funds appropriated by this Act to carry out part I of the Foreign Assistance Act of 1961 and funds appropriated by this Act under the heading "Assistance for Eastern Europe and the Baltic States", to remain available until expended: *Provided*, That of this amount, up to \$1,500,000 for administrative expenses to carry out such programs

may be transferred to and merged with "Operating Expenses of the Agency for International Development": *Provided further*, That the provisions of section 107A(d) (relating to general provisions applicable to development credit authority) of the Foreign Assistance Act of 1961, as added by section 306 of H.R. 1486 as reported by the House Committee on International Relations on May 9, 1997, shall be applicable to direct loans and loan guarantees provided under this paragraph: *Provided further*, That direct loans or loan guarantees under this paragraph may not be provided until the Director of the Office of Management and Budget has certified to the Committee on Appropriations that the Agency for International Development has established a credit management system capable of effectively managing the credit programs funded under this heading, including that such system (1) can provide accurate and timely provision of loan and loan guarantee data, (2) contains information control systems for loan and loan guarantee data, (3) is adequately staffed, and (4) contains appropriate review and monitoring procedures.

AMENDMENT NO. 878

On page 20, line 14, after the word "paragraph" insert the following: "*Provided further*, That up to \$22,000,000 made available under this heading may be transferred to the Export Import Bank of the United States, and up to \$8,000,000 of the funds made available under this heading may be transferred to the Micro and Small Enterprise Development Program, to be used for the cost of direct loans and loan guarantees for the furtherance of programs under this heading: *Provided further*, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974".

AMENDMENT NO. 879

On page 97, line 5, strike the words "between the United States and the Government of Indonesia".

On page 97, line 6, insert a comma after the word "sale" and strike the word "or".

On page 97, line 7, after the word "transfer" insert ", or licensing".

On page 97, line 7, after the word "helicopter" insert "for Indonesia entered into by the United States".

AMENDMENT NO. 880

On page 102, line 9, after the word "1998.", insert the following:

EXCESS DEFENSE ARTICLES FOR CERTAIN EUROPEAN COUNTRIES

SEC. 575. Section 105 of Public Law 104-164 (110 Stat. 1427) is amended by striking "1996 and 1997" and inserting "1998 and 1999".

SEC. 576. ADDITIONAL REQUIREMENTS RELATING TO STOCKPILING OF DEFENSE ARTICLES FOR FOREIGN COUNTRIES.

(a) VALUE OF ADDITIONS TO STOCKPILES.—Section 514(b)(2)(A) of the Foreign Assistance Act of 1961 (22 U.S.C. 2321h(b)(2)(A)) is amended by inserting before the period at the end the following: "and \$60,000,000 for fiscal year 1998".

(b) REQUIREMENTS RELATING TO THE REPUBLIC OF KOREA AND THAILAND.—Section 514(b)(2)(B) of such Act (22 U.S.C. 2341h(b)(2)(B)) is amended by adding at the end the following: "Of the following: 'Of the amount specified in subparagraph (A) for fiscal year 1998, not more than \$40,000,000 may be made available for stockpiles in the Republic of Korea and not more than \$20,000,000 may be made available for stockpiles in Thailand.'"

SEC. 577. DELIVERY OF DRAWDOWN BY COMMERCIAL TRANSPORTATION SERVICES.

Section 506 of the Foreign Assistance Act of 1961 (22 U.S.C. 2318) is amended—