

the “do-nothing” Congress. The 110th Congress is quickly becoming the “say anything and do-nothing Congress” when it comes to fiscal discipline. Last week, when the Senate debated the budget, the majority spoke of the need for fiscal discipline, even as it passed the \$700 billion tax hike for taxpayers over the next 5 years.

The chairman of the Senate Budget Committee was quoted as saying:

We have a responsibility to govern, and you can't govern without a budget.

But governing takes more than simply passing a budget. Governing also includes the discipline to live within a budget.

Unfortunately, both the Senate and the House failed in their first test by including billions more in the war supplemental than the President requested. As I mentioned, President Bush has already threatened to veto the House bill; not all because of the timetable it imposes for our troops' withdrawal from Iraq but also because the bill is full of pork.

In today's edition of the *Politico*, they did a fine job of identifying some of the most egregious examples of pork included in the House bill. They highlighted \$5 million for tropical fish breeders and transporters for losses from a virus last year; \$25 million for spinach that growers and handlers were unable to market, up to 75 percent of their losses; \$60.4 million for the National Marine Fisheries Service to be distributed among fishing communities, Indian tribes, individuals, small businesses, including fishermen, fish processors, and related businesses, and other persons for assistance to mitigate the economic and other social effects by a commercial fishery failure.

It also includes \$74 million for the payment of storage, handling, and other associated costs for the 2007 crop of peanuts to ensure proper storage of peanuts for which a loan is made, and the House bill also includes \$120 million for the shrimp and menhaden fishing industries to cover consequences of Hurricane Katrina.

Now, I have to confess, even though I like to fish a little myself, I had never even heard of menhaden, so I went on the Internet to something called the Menhaden Fact Sheet. This is, if you will recall, \$120 million for the shrimp and menhaden fishing industries to cover consequences of Hurricane Katrina. Well, as it turns out, according to the Wikipedia, the free encyclopedia on the Internet, the menhaden are fish of the—well, I can't even pronounce the Latin phrase, but they are of the herring family.

It says here, describing this menhaden that the taxpayer is being asked to pay \$120 million in this emergency war supplemental: to support the gulf menhaden and Atlantic menhaden which are characterized by a series of smaller spots behind the main, humeral spot and larger scales than yellowfin menhaden and finescale menhaden. In addition, yellowfin menhaden tail rays are

a bright yellow in contrast to those of the Atlantic menhaden, which are grayish. Menhaden range in weight up to 1 pound or more. At sea, schools of Atlantic menhaden may contain millions of members. Common names for Atlantic menhaden are mossbunkers and fatback. In Florida, yellowfin menhaden are called pogies, and are the preferred species for use as strip bait.

This is important. It talks about the range, since this is supposedly done as part of the Hurricane Katrina relief measure. It says gulf menhaden range from the Yucatan Peninsula to Tampa Bay, FL, with finescaled menhaden from the Yucatan to Louisiana—I guess we are getting a little closer now to where Hurricane Katrina hit—yellowfin menhaden from Louisiana to North Carolina, the Atlantic menhaden ranges from Jupiter Inlet, FL, to Nova Scotia. The various species of menhaden occur anywhere from estuarine waters outward to the Continental Shelf.

It says that menhaden are essentially filter feeders, straining microscopic plankton, algae, et cetera, from the water they swim through open-mouthed. Unlike mullet, they are not bottom feeders. Due to their feeding habits, they must be caught by cast netting to be used as live bait.

This is the most interesting part of the article. It says: menhaden are not used for human consumption. Most recently, menhaden has begun to be exploited as a source of omega-3 fatty acid fish oil for commercial human consumption, further threatening menhaden populations.

I certainly don't know what the purpose is of this \$120 million for shrimp and the menhaden fishing industries, but I can't see in this description, or anywhere else in this legislation, why this is an emergency or why it ought to be included in an emergency war supplemental. If anything, the inclusion of this kind of appropriation in this emergency war supplemental in the House bill trivializes the importance of providing the money that will help our troops deployed in Afghanistan and Iraq in harm's way.

Here is what the Senate bill included: \$24 million for funding of sugar beets; \$3 million funding for sugar cane, all of which goes to a Hawaiian cooperative; \$100 million for dairy product losses; an additional \$31 million for a 1-month extension of the Milk Income Loss Contract Program; 13 million for Ewe Lamb Replacement and Retention Program; \$115 million for the conservation security program; \$100 million for small agricultural dependent businesses; \$13 million for mine safety technology research; \$50 million for fisheries disaster mitigation fund.

There is so much pork included in this supplemental appropriations bill, both in the House version and in the Senate proposal, that it warranted a front-page story and editorial in *USA Today*. An editorial in *USA Today* questioned:

Which is worse: Leaders offering peanuts for a vote of this magnitude, or Members allowing their votes to be bought for peanuts.

The editorial went on to conclude:

These provisions demean a bill that, if enacted, would affect the lives of troops in Iraq and Afghanistan, the balance of power in the Middle East and America's long-term security.

In short, what we have is that my colleagues on the other side of the aisle are willing to put money into pet projects—which may or may not be worthy endeavors, we will never know—and yet are unwilling to adequately fund the needs of our military. For all their talk of earmark reform and transparency earlier this year, my colleagues seemed to have forgotten all of that when they put together the supplemental appropriations bill.

Madam President, I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER (Ms. STABENOW). The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. ALEXANDER. Madam President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Tennessee is recognized.

Mr. ALEXANDER. Madam President, I ask unanimous consent to speak as in morning business for up to 8 minutes.

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

FIRING OF U.S. ATTORNEYS

Mr. ALEXANDER. Madam President, my late friend Alex Haley, the author of *Roots*, lived his life by 6 words: “Find the Good and Praise It.” I thought of those 6 words in connection with the current discussion about the firing of 8 United States Attorneys.

The Democrats are making political hay out of these firings at a time when the Senate should be focused on Iraq, terrorism, health care costs, excessive federal spending, energy independence and keeping our brainpower advantage so we can keep our good jobs here instead of seeing them move overseas.

U.S. Attorneys have always been political appointees serving at the pleasure of the president. President Clinton fired them all on his first day in office. Such partisanship is nothing new. Former Attorney General Griffin Bell recently said that the custom once was for U.S. attorneys simply to vacate their offices on the day a new president was inaugurated, knowing that new political appointees would soon arrive to take their desks.

In the summer of 1963, in between my first and second year at New York University Law School, I worked in Attorney General Robert Kennedy's office as an intern. I was so impressed that, after graduation, I drove to Chattanooga to apply for a job as an Assistant U.S. Attorney. The interview went fine until the U.S. Attorney for the Eastern District of Tennessee asked about my politics.

"I'm a Republican," I said.

"Sorry," he said, "We only hire Democrats."

"But the Attorney General said the administration of justice was non-partisan," I replied.

"That word hasn't gotten down here," the U.S. Attorney said.

Yet the historic political nature of these appointments is no excuse for the excessive partisanship, amateurishness and bumbling exhibited by the firing of these eight U.S. Attorneys in the middle of the President's term. The best way to put in relief what is wrong with these firings is to remember Alex Haley's admonition, "Find the Good and Praise It," and point to an example of how political appointees can by their courageous action earn respect for the administration of justice.

I have a personal interest in the example I offer. Nearly 30 years ago—on January 17, 1979—I was sworn into office 3 days early as Governor of Tennessee in order to prevent the incumbent Governor from issuing 52 pardons and commutations to prisoners the FBI believed had paid cash for their release.

The U.S. Attorney for the Middle District of Tennessee, Hal Hardin—a Democrat appointed by President Carter—telephoned to ask me to take office early. Hardin was working with the State attorney general, William Leech, another Democrat, to arrange the unprecedented early swearing-in. Because Hardin and Leech were able to rise above partisanship, the Speakers of the Senate and House and Chief Justice as well as the Secretary of State—also all Democrats—participated in my early swearing-in and the ouster of a Democratic incumbent Governor.

As it turned out, I was the only Republican in the group.

As then-Speaker of the House and later Governor Ned McWherter said, "We are Tennesseans first."

The story of January 17, 1979 was recently retold by Judge William C. Koch, Jr., a member of the Tennessee Court of Appeals, in the March 2007 issue of the Nashville Bar Journal. Judge Koch was on the staff of the State attorney general at that time and later was counsel when I was Governor.

In the spirit of "Find the Good and Praise It," I offer for the RECORD Judge Koch's article as an example of how our system of political appointment of U.S. Attorneys can and should operate, in contrast to the example of the 8 firings and the response to those firings that we are discussing today.

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

[From the Nashville Bar Journal, Mar. 2007]

THEY WERE TENNESSEANS FIRST

(By Judge William C. Koch, Jr.)

Cries of "let's kill all the lawyers" have been heard ever since Shakespeare wrote Henry VI. Some believe that lawyers and judges have caused—or at least contributed to—most of society's ills. Because the legal profession provides such a convenient target,

lawyer-bashing remains fashionable in some circles.

Despite the din of criticism, the truth is that our nation has looked to lawyers for guidance and leadership in times of crisis. An appellate lawyer from Virginia wrote the Declaration of Independence. A trial lawyer from Illinois signed the Emancipation Proclamation. A former criminal prosecutor led the citizens of New York during the dark days following the destruction of the Twin Towers. And it was a Tennessee lawyer who, as a member of the Senate Watergate Committee, helped establish that not even the President of the United States is above the law.

Lawyers and the courts have also been instrumental in facilitating orderly transitions of governmental power in times of controversy and unrest. Most recently, the nation and the world looked on as lawyers and courts resolved the legal disputes surrounding the 2000 presidential election. Almost thirty years ago, two Tennessee lawyers orchestrated one of this country's most unique transitions of governmental power right here in Tennessee. My purpose is to recount some of what Hal Hardin and Bill Leech did in less than twenty-four hours on Wednesday, January 17, 1979.

Governor Ray Blanton's administration was clouded by controversy from its very beginning in January 1975. Many of these controversies involved state prisoners. In October 1976, a rumored federal "clemency for cash" investigation made front page headlines when FBI agents raided the office of Governor Blanton's lawyer and seized over one hundred files. In August 1977, the Governor fired Marie Ragghianti, his hand-picked chairman of the parole board. Ms. Ragghianti hired Fred Thompson, and litigation followed.

Perhaps the most notorious controversy involved Roger Humphreys, the son of one of Governor Blanton's political allies, who had been convicted in 1975 of murdering his former wife and her boyfriend. Humphreys shot his two victims eighteen times with a two-shot derringer. Governor Blanton arranged for Humphreys to become a trustee and then gave him a job as a state photographer. When questioned, the governor insisted that Humphreys was "a fine young man" and bragged that he planned to pardon Humphreys before he left office.

The reaction to Governor Blanton's promise to pardon Roger Humphreys was swift and furious. The Tennessee House of Representatives passed HJR 271 urging Governor Blanton not to pardon him. A bipartisan committee, chaired by former Governor Winfield Dunn, a Republican, and John Jay Hooker, a prominent Democrat, started a statewide petition drive to urge the Governor not to pardon Humphreys. Governor Blanton announced on the eve of the 1978 general election that "after prayerful consideration" he would not pardon Humphreys. However, two weeks after the election, Governor Blanton announced that he had changed his mind and that he was again considering a pardon for Humphreys.

The public's outrage increased during December 1978. The FBI arrested Governor Blanton's lawyer in his office at the Capitol and charged him with selling pardons. The lawyer had clemency papers and marked money in his possession when he was arrested. One week later, Governor Blanton appeared before a federal grand jury and proclaimed as he was leaving the courthouse, "I have nothing to hide."

Governor Blanton's activities eventually prompted Senator Victor Ashe, a Republican from Knoxville, to ask William M. Leech, Jr., Tennessee's new Attorney General, to decide whether the governor-elect could be-

come governor before the inauguration set by the legislature for January 20, 1979. While Bill Leech, a populist Democrat from Santa Fe, had been in the eye of the storm before, he did not relish answering this question. On January 3, 1979, his office issued Opinion No. 79-3 concluding that Republican Governor-elect Lamar Alexander could take the oath of office and become governor any time after midnight on January 15, 1979. General Leech decided against releasing the opinion to the public immediately.

On January 5, 1979, Governor Blanton confirmed that he had been notified that he was a target of the federal grand jury "clemency for cash" investigation. In addition, the United States Attorney for the Middle District of Tennessee sent a letter to the parole board identifying twenty-six prisoners who were implicated in the growing "clemency for cash" investigation. Despite these developments, Governor Blanton continued to joke with the press about his plans to pardon Roger Humphreys.

Even though the Attorney General's opinion was not released to the public until January 15, 1979, rumors about the possibility of an early swearing-in began to circulate on Capitol Hill. Speaker of the House Ned Ray McWherter confirmed that the General Assembly might inaugurate the Governor-elect early if Governor Blanton issued any mass commutations. Lamar Alexander, an accomplished lawyer himself, downplayed the Attorney General's opinion. After consulting privately with the Speaker McWherter and Lieutenant Governor John Wilder, he stated that it would be "totally inappropriate for me to assume power wholly on my own initiative."

Speaker McWherter's fears were realized on Monday, January 15, 1979. Around 8:00 p.m. on that cold, rainy evening, Governor Blanton returned to his office in the Capitol. He was joined by his new lawyer and his Commissioner of Correction, and later by Secretary of State Gentry Crowell. Over the course of the next three hours, Governor Blanton signed clemency papers for 52 prisoners, including Roger Humphreys. As he signed Humphreys's papers, the Governor commented, "This takes guts." Mr. Crowell replied, "Yeah, well some people have more guts than they've got brains."

The press corps quickly learned that Governor Blanton was in his office, and the reporters were waiting for him when he left the Capitol after 11:00 p.m. The Governor confirmed that he had signed a number of clemency documents, but he was coy about how many and for whom. Governor Blanton did not tell the reporters that Rogers Humphreys's clemency was being hand-carried to the state prison at that very moment. By the time the Secretary of State confirmed that Humphreys was among the 52 prisoners receiving clemencies, Humphreys had already left the prison a free man.

News of the 52 late night clemencies hit like a bombshell on January 16, 1979. State and federal officials—both Democrat and Republican—expressed dismay and began looking for ways to undo what Governor Blanton had done. The Governor's office fueled the controversy when the Governor's new lawyer announced that Governor Blanton might issue 18 more clemencies, including one "big name," before the governor-elect's inauguration.

General Leech was in Washington on January 16, 1979 to argue a case before the United States Supreme Court. His pregnant wife had also gone into labor. He completed the argument and telephoned his office with directions to modify Opinion No. 79-3 to state that a court might hold that the Governor-elect could only take the oath of office at the scheduled inauguration. General Leech

arrived in Nashville later that evening and went directly to the hospital. His son was born the next morning.

It was at this point that Hal D. Hardin, the United States Attorney in Nashville, stepped up to the plate. Hardin, a "yellow dog" Democrat, had been appointed United States Attorney by President Jimmy Carter in July 1977. Prior to that appointment, he had been the widely respected presiding judge on the Circuit Court for Davidson County. In fact, Governor Blanton himself had placed Mr. Hardin on the bench in 1975. Despite Governor Blanton's protestations that the "clemency for cash" investigation was a partisan Republican conspiracy, Hardin had been involved with the investigation for more than a year.

Mr. Hardin had learned from a confidential source that Governor Blanton was preparing to issue clemencies for 18 to 20 more prisoners who were implicated in the ongoing "clemency for cash" investigation. Rather than waiting for events to unfold, Mr. Hardin, without the knowledge of the FBI or his staff, telephoned Lamar Alexander on the morning of January 17, 1979. He told Alexander that he was calling as a Tennessean and explained that he had received reliable information that Governor Blanton was preparing to issue additional clemencies, and he recommended that the Governor-elect consider taking office three days early in what Lamar Alexander later described as a "swift and secret coup."

Lamar Alexander had high regard for Hal Hardin. However, rather than acting on his own, he asked Hardin relay the information to Speaker McWherter, Lieutenant Governor Wilder, and General Leech. Hardin placed separate telephone calls to Speaker McWherter and Lieutenant Governor Wilder. He suggested a meeting among the three of them. Speaker McWherter and Lieutenant Governor Wilder decided against the meeting because they were concerned that a private meeting might violate the Sunshine Law. Instead, they asked him to meet with General Leech. Mr. Hardin telephoned General Leech, and a short time later, General Leech and two senior members of his staff met with Mr. Hardin in a hotel room across the street from the federal courthouse that Hardin had rented under an assumed name. Both Hardin and Leech understood that they had been given the responsibility to chart a course of action for the leaders of state government. The discussion was tense and sometime heated despite their close personal and professional relationship. For several hours, they reviewed Opinion No. 79-3 and eventually determined that the original opinion was correct. They also discussed how Governor Blanton might react and formulated contingency plans. When the meeting concluded, both General Leech and Mr. Hardin agreed to advise the state officials that the only way to prevent Governor Blanton from issuing more clemencies would be for Lamar Alexander to take the oath of office immediately.

Mr. Hardin returned to his office following the meeting in the hotel room. General Leech telephoned Lamar Alexander. He told the Governor-elect that despite his earlier misgivings about Opinion No. 79-3, he was now convinced that state law permitted the Governor-elect to assume office before the inauguration and that removing Governor Blanton from office was not only appropriate but necessary. Then General Leech met with Speaker McWherter and Lieutenant Governor Wilder and reiterated what he had told the Governor-elect. The legislative leaders were convinced that Governor Blanton should be removed from office, and Speaker McWherter telephoned Lamar Alexander and told him, "It's time for leadership . . . We will support you."

Numerous telephone conversations involving Lamar Alexander, Speaker McWherter, Lieutenant Governor Wilder, and General Leech followed.

They agreed that bipartisanship was essential and that Tennessee's citizens should understand that Tennessee's elected leaders were united in this decision. They decided that the legislative leaders, the constitutional officers, and the Attorney General—all Democrats—should be present at the ceremony, and they agreed on a statement that Alexander would read before he took the oath of office. They also decided that the ceremony should take place in the courtroom at the Supreme Court Building in Nashville and that Chief Justice Joseph Henry, also a Democrat, should be invited to administer the oath of office.

Shortly after 5:00 p.m., Speaker McWherter, Lieutenant Governor Wilder, the constitutional officers, and the members of the media walked from the Legislative Plaza to the Supreme Court. They were joined there by Lamar Alexander, his family, and several of Alexander's senior advisors. Chief Justice Henry administered the oath. The somber ceremony lasted six minutes. The press conference that followed lasted much longer. It was not lost on the media that the new governor was a Republican while most of the other officials involved in the ceremony were Democrats. One television reporter attempted to obtain a partisan comment from Speaker McWherter. However, Speaker McWherter, who would later serve as Governor with distinction, cut the reporter short saying, "Let me say to you. First, I'm a Tennessean, and I think this is in the interest of Tennessee regardless of the party."

Just before the ceremony began, General Leech telephoned Governor Blanton to inform him he was no longer Governor. Following the call, Governor Blanton complained that "there was no courtesy extended to me today." Agents of the FBI circulated through the Capitol serving grand jury subpoenas on Governor Blanton's staff. Hal Hardin decided not to attend the ceremony. Rather than remaining in his office, he went for a long drive to be alone with his thoughts and to reflect on the events of the day.

As soon as the ceremony ended, several senior members of now Governor Alexander's staff made their way to the Capitol to secure the Governor's office. They found Governor Blanton's lawyer in his office preparing clemency papers for 30 more prisoners. Lewis R. Donelson, a Memphis lawyer who had already been named as the new Commissioner of Finance and Administration, refused to permit the lawyer to leave the building with the papers. When Governor Blanton telephoned to question his authority, Mr. Donelson replied that he was acting "by the authority of the new governor." In response to Governor Blanton's assertion that he was still the governor, Mr. Donelson replied, "Not anymore."

A full discussion of the aftermath of the events of January 17, 1979 must await another day. Governor Alexander appointed Fred Thompson as special counsel to oversee his Administration's response to the clemency crisis. Governor Alexander's formal inauguration took place as planned on January 20, 1979. For the second time, Governor Alexander took the oath administered by Chief Justice Henry in the presence of Speaker McWherter, Lieutenant Governor Wilder and the constitutional officers. While litigation in the federal and state court would follow, the transition of governmental power proceeded with bipartisan dignity. Governor Alexander announced that "today ought to be a happy one because the people and their government are back together again."

Courage does not always draw attention to itself. Hal Hardin did not attend the inauguration. Bill Leech was present but did not play a prominent role in the ceremonies. While Lamar Alexander, Ned Ray McWherter, and John Wilder deserve credit for their personal courage and decisive demonstration of bipartisanship, the principal figures in this political drama agree that the events of January 17, 1979 would not have unfolded the way they did had it not been for Hal Hardin and Bill Leech. These lawyers placed the rule of law and governmental integrity ahead of political expediency and personal reputation. In the words of Speaker McWherter, they were Tennesseans first and their actions sprang from their desire to protect the interests of all Tennesseans, regardless of party.

Mr. ALEXANDER. I thank the Senator from Washington. I yield the floor.

MORNING BUSINESS

Mrs. MURRAY. I ask unanimous consent the Senate now proceed to Morning Business with Senators allowed to speak for up to 10 minutes each.

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

Mrs. MURRAY. 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. LIEBERMAN. I ask unanimous consent that the order for the quorum call be rescinded.

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

SUPPLEMENTAL APPROPRIATIONS

Mr. LIEBERMAN. Madam President, I rise to speak in support of the amendment to strike section 1315 of the supplemental appropriations bill now before the Senate. The motion to strike was proposed earlier today by the Senator from Mississippi, Mr. COCHRAN. I am honored to be a cosponsor of it. I wish to explain to my colleagues why I am cosponsoring it.

This is a bill that is quite necessary to the funding of our military effort in Iraq and more broadly. The bill has kind of grown like Topsy and has a lot of other stuff in it. Maybe I am reflecting on the fact that I am going to see my grandchildren soon. One of my favorite Dr. Seuss books is about Thidwick the moose. Thidwick is a glorious moose with large antlers. Various creatures in the forest begin to occupy, ultimately quite unjustifiably, Thidwick's antlers until they fall off. There are parts of this supplemental appropriations bill that in my opinion, respectfully, do not belong there. Most significant of those is section 1315, which our motion would strike.

Section 1315 would order a withdrawal of American troops in Iraq to begin 120 days after passage, regardless of conditions on the ground, regardless of the recommendations of General Petraeus, regardless of the opinions of our partners in Iraq and throughout