The consequences would be severe. Peter Wallison is a fellow at the American Enterprise Institute and is very knowledgeable about these matters. He wrote this last year:

Financial institutions that are not large enough to be designated significant will gradually lose out in the marketplace to the larger companies that are perceived to have government backing just as Fannie and Freddie were able to drive banks and others from the secondary market for prime middle-class mortgages. A small group of government-backed financial institutions will thus come to dominate all sectors of finance in the U.S.

Well, that is the formal way of saying what I said before, and that is one of the reasons we don't want to have this kind of implicit guarantee or, in the case of the legislation, explicit guarantee by the taxpayers. You will see the same kinds of distortions as were created by Fannie Mae and Freddie Mac in the housing market prior to the collapse of the financial sector last year.

Back in 2003, I was chairman of the Senate Republican policy committee, and we began researching and writing about this. We wrote two specific papers sounding the alarm about Fannie Mae and Freddie Mac. I was concerned back then that this explicit guarantee or backing of these institutions permitted them to operate without adequate capital and to assume more risk than their competitors and borrow at below market rates of interest, and that is exactly what happened. Smaller companies got crushed. Fannie and Freddie engaged in increasingly risky lending with the backing of the Federal Government. On a massive scale, they made mortgages available to people who could not afford them, like buying those risky mortgages, and that easy credit fueled very rapidly rising home prices. As prices rose, obviously, the demand for even larger mortgages rose, and Fannie and Freddie looked for ways to make even more mortgage credit available, notwithstanding a questionable ability to repay. It was a giant accident waiting to happen.

By 2008, these two GSEs—government-sponsored enterprises—held nearly $5 trillion in mortgages and mortgage-backed securities. They were overleveraged. They were too big to fail. The resulting collapse devastated our economy, and it left taxpayers with a tab of hundreds of billions of dollars. In fact, Fannie Mae and Freddie Mac have now transferred to you and me $6.3 trillion of their liabilities—just those two entities—and we are on the hook for it.

That is what we have to prevent from happening, but that is exactly what this legislation that passed out of the Banking Committee would permit. Why would we continue this kind of too-big-to-fail taxpayer liability in what we call a reform bill? We ought to stop that, make sure it never happens again.

I also wish to make this point, since there is a new regulator contemplated in this legislation. What happened to Fannie and Freddie happened despite the fact that they had their own dedicated regulator, and that is exactly what is proposed for institutions in this bill. In fact, the bill would use the very same regulators who failed to stop the financial crisis from happening.

I thought this was supposed to be reform. This isn't reform. I am reminded of a line from literature—I don't think it is from ''A Tale of Two Cities,'' but it could be—where the actor says, ''Reform, sir? Don't talk of reform. Things are bad enough already.'' That is kind of the way I look at this. We have problems, and the kind of reform that is being suggested here is not an improvement; it is a continuation of the same obligation of taxpayers to bail out those who are deemed too big to fail.

I wish to add that the bill even extends the scope of these potential future bailouts beyond banks. It would explicitly give the Federal Reserve authority to regulate any large company in America that it wanted to. Thus, the Financial Stability Oversight Council, FSOC, would have the power to designate nonbank financial institutions as a threat to financial stability—the code word for ''too big to fail.'' So a new government board based in Washington would decide which institutions get special treatment, giving unaccountable bureaucrats tremendous authority to pick winners and losers, and these favorite firms, too, would have a funding advantage over their competitors.

In addition to extending this to bigger companies, the legislation extends this same definition all the way through our financing sectors to smaller companies. For example, one of the auto dealers in your town that finances the automobiles you buy, if you have more than four payments, they are covered under here. It even would cover a dentist's office or an optometrist. If it takes more than four payments to take care of what he had to do, he would be covered by this. So this would extend to small and large and in all cases puts a government bureaucrat in charge of trying to find out why a firm is in trouble and ultimately requires, if they are needed, taxpayers to come to the rescue of these firms. As I said, we have to avoid making the mistakes of the past. A firm's cost of capital should be based on its ability to repay its commitments, not on the probability of future government assistance.

So given recent experience, I would suggest that we need a more competitive financial industry with many firms, not just a few large firms with implicit government guarantees dominating the market.

I started my comments by speaking about what the American people don't like and what they would like to see. I think they deserve a better approach than this legislation that passed out of the Banking Committee, one that promotes accountability and responsible oversight. This bill, as I said, is a risk the taxpayers don't need and, frankly, cannot afford.

So I urge my Democratic colleagues to reengage with Republicans to produce a bipartisan bill that can pass the Senate by a wide margin. Let's not have any more health care bills where it is done strictly on a partisan, party-line basis, with a consensus lacking, with the American people not liking what is being done. We can provide for the orderly bankruptcy of these failed institutions without keeping taxpayers on the hook for losses.

By the way, a lot of this reform has to deal with preventing the bankruptcy in the first place—in other words, regulating some of these new esoteric financial instruments so that there is greater transparency in the complicated trading of these financial instruments.

I think we can work this out and keep politics out of it. Everybody understands there are things which need to be done to prevent the kind of collapse we had in the past. It is my understanding that the hard-working members of the Banking Committee on both sides of the aisle had been working hard together and had been producing compromises. They were characterized to me as, it is not everything I would want, but then in a compromise you don't get everything you want. That is the spirit in which we can work together to produce a product that I think would be acceptable to our constituents, who don't want to be on the hook for any more of these bailouts, as well as provide the kind of transparency up front and procedures for unwinding businesses on the back end when they finally are unable to continue in business, a process which would not require the taxpayers to bear ultimate responsibility for their losses. If we are able to work together to do this, it will be a win-win situation for the American people, and just maybe we will demonstrate that Republicans and Democrats can actually sit down together, work something out, and pass a bill that is good for everybody.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

ARTICLES OF IMPEACHMENT AGAINST JUDGE G. THOMAS PORTEOUS, JR.

The PRESIDING OFFICER. The Chair submits to the Senate for printing in the Senate Journal and in the CONGRESSIONAL RECORD the replication of the House of Representatives to the Answer of Judge G. Thomas Porteous, Jr., to the Articles of Impeachment against Judge Porteous, pursuant to S. Res. 457, 111th Congress, Second Session, which replication was received by the Secretary of the Senate on April 15, 2010.

The materials follow.

CONGRESS OF THE UNITED STATES,
Washington, DC, Apr. 15, 2010.

Re Impeachment of G. Thomas Porteous, Jr., United States District Judge for the Eastern District of Louisiana.

Hon. NANCY ERICKSON,
Secretary of the Senate,
U.S. Senate, Washington, DC.

DEAR MS. ERICKSON: Pursuant to Senate Resolution 457 of March 17, 2010, enclosed is the Replication of the House of Representatives to the Answer of G. Thomas Porteous Jr., to the Articles of Impeachment.

A copy of the Replication and of this letter will be served upon counsel for Judge Porteous today through electronic mail.

Sincerely,

ALAN I. BARON,
Special Impeachment Counsel.

IN THE SENATE OF THE UNITED STATES
Sitting as a Court of Impeachment

IN RE: IMPEACHMENT OF G. THOMAS PORTEOUS, JR., UNITED STATES DISTRICT JUDGE FOR THE EASTERN DISTRICT OF LOUISIANA

REPLICATION OF THE HOUSE OF REPRESENTATIVES TO THE ANSWER OF G. THOMAS PORTEOUS, JR., TO THE ARTICLES OF IMPEACHMENT

The House of Representatives, through its Managers and counsel, respectfully replies to the Answer to Articles of Impeachment as follows:

RESPONSE TO THE PREAMBLE

Judge Porteous in his Answer to the Articles of Impeachment, denies certain of the allegations and makes what are primarily technical arguments as to the charging language that do not address the factual substance of the allegations. However, it is in Judge Porteous's Preamble that he sets forth his real defense and, without denying he committed the conduct that is alleged in the Articles of Impeachment, insists that nevertheless he should not be removed from Office.

At several points in his Preamble, Judge Porteous notes that he was not criminally prosecuted by the Department of Justice, the implication being that the House and the Senate should abdicate their Constitutionally assigned roles of deciding whether the conduct of a Federal judge rises to the level of a high crime or misdemeanor and warrants the Judge's removal, and should instead defer to the Department of Justice on this issue. Judge Porteous maintains that impeachment and removal may only proceed upon conduct that resulted in a criminal prosecution, no matter how corrupt the conduct at issue, or what reasons explain the Department's decision not to prosecute. Judge Porteous provides no support for this contention because there is none—that is not what the Constitution provides.

Indeed, the Senate has by its prior actions made it clear that the decision as to whether a Judge's conduct warrants his removal from Office is the Constitutional prerogative of the Senate—not the Department of Justice—and the existence of a successful (or even an unsuccessful) criminal prosecution is irrelevant to the Senate's decision. The Senate has convicted and removed a Federal judge who was acquitted at a criminal trial (Judge Alcee Hastings). The Senate has also convicted a Federal judge for personal financial misconduct (Judge Harry Claiborne) while at the same time acquitting that same Judge of the Article that was based specifically on the fact of his criminal conviction.[1] Thus, Judge Porteous's repeated references to what the Department of Justice did or did not do adds nothing to the Senate's evaluation of the charges or the facts in this case.[2]

Further, according to Judge Porteous, pre-Federal bench conduct cannot be the basis of Impeachment, even if that conduct consisted of egregious corrupt activities that was beyond the reach of criminal prosecution because the statute of limitations had run, and even if Judge Porteous fraudulently concealed that conduct from the Senate and the White House at the time of his nomination and confirmation. There is nothing in the Constitution to support this contention, and it flies in the face of common sense. The Senate is entitled to conclude that Judge Porteous's pre-Federal bench conduct reveals him to have been a corrupt state judge with his hand out under the table to bail bondsmen and lawyers. Such conduct, which, as alleged in Articles I and II, continued into his Federal bench tenure, demonstrates that he is not fit to be a Federal judge.

Finally, the notion that Judge Porteous is entitled to maintain a lifetime position of Federal judge that he obtained by acts that included making materially false statements to the United States Senate is untenable. Judge Porteous would turn the confirmation process into a sporting contest, in which, if he successfully were to conceal his corrupt background prior to the Senate vote and thereby obtain the position of a Federal judge, he is home free and the Senate cannot remove him.

ARTICLE I

The House of Representatives denies each and every statement in the Answer to Article I that denies the acts, knowledge, intent or wrongful conduct charged against Respondent.

FIRST AFFIRMATIVE DEFENSE

The House of Representatives denies each and every allegation of this purported affirmative defense and further states that Article I sets forth an impeachable offense as defined in the Constitution of the United States.

SECOND AFFIRMATIVE DEFENSE

The House of Representatives denies each and every allegation of this purported affirmative defense, namely, that Article I is vague. To the contrary, Article I sets forth several precise and narrow factual assertions associated with Judge Porteous's handling of a civil case (the Liljeberg litigation), including allegations that Judge Porteous ''denied a motion to recuse himself from the case, despite the fact that he had a corrupt financial relationship with the law firm of Amato & Creely, P.C. which had entered the case to represent Liljeberg'' and that while that case was pending, Judge Porteous ''solicited and accepted things of value from both Amato and his law partner Creely, including a payment of thousands of dollars in cash.'' There is no vagueness whatsoever in these allegations. Article I's allegation that Judge Porteous deprived the public and the Court of Appeals of his ''honest services''—a phrase to which Judge Porteous raises a particular objection—could not he more clear and free of ambiguity as used in this Article, and accurately describes Judge Porteous's dishonesty in handling a case, including his distortion of the factual record so that his ruling on the recusal motion was not capable of appellate review.[3]

THIRD AFFIRMATIVE DEFENSE

The House of Representatives denies each and every allegation of the purported affirmative defense that Article I charges more than one offense. The plain reading of Article I is that Judge Porteous committed misconduct in his handling of the Liljeberg case by means of a course of conduct involving his financial relationships with the attorneys in that case and his failure to disclose those relationships or take other appropriate judicial action. The separate acts set forth in Article I constitute part of a single unified scheme involving Judge Porteous's dishonesty in handling Liljeberg. Further, the charges in this Article are fully consistent with impeachment precedent.[4]

FOURTH AFFIRMATIVE DEFENSE

The House of Representatives denies each and every allegation of this purported affirmative defense, which, in effect, seeks to suppress the voluntary statements of a highly educated and experienced Federal judge, made under oath, before other Federal judges. Judge Porteous was provided a grant of immunity in connection with his Fifth Circuit Hearing testimony, and the immunity order provided that his testimony from that proceeding could not be used against him in ''any criminal case.'' Simply put, an impeachment trial is not a criminal case.[5] Accordingly, there is simply no credible basis to argue that the Senate should not consider Judge Porteous's voluntary and immunized Fifth Circuit testimony.

ANSWER TO ARTICLE II

The House of Representatives denies each and every statement in the Answer to Article II that denies the acts, knowledge, intent or wrongful conduct charged against Respondent.

FIRST AFFIRMATIVE DEFENSE

The House of Representatives denies each and every allegation of this purported affirmative defense and further states that Article II sets forth an impeachable offense as defined in the Constitution of the United States.

SECOND AFFIRMATIVE DEFENSE

The House of Representatives denies each and every allegation of this purported affirmative defense, namely, that the Article is vague. To the contrary, Article II sets forth several precise and narrow factual assertions associated with Judge Porteous's relationship with the Marcottes—both prior to and subsequent to Judge Porteous taking the Federal bench. Article II alleges with specificity the things of value given to Judge Porteous over time and identifies the judicial or other acts taken by Judge Porteous for the benefit of the Marcottes and their business.

THIRD AFFIRMATIVE DEFENSE

The House of Representatives denies each and every allegation of this purported affirmative defense, namely, that the Article improperly charges multiple offenses. The plain reading of Article II is that Judge Porteous engaged in a corrupt course of conduct whereby, over time, he solicited and accepted things of value from the Marcottes, and, in return, he took judicial acts or other acts while a judge to benefit the Marcottes and their business.

FOURTH AFFIRMATIVE DEFENSE

The House of Representatives denies each and every allegation of this purported affirmative defense, namely, that Article II improperly charges pre-Federal bench conduct as a basis for impeachment. First, Article II plainly alleges that Judge Porteous's corrupt relationship with the Marcottes continued while he was a Federal Judge. Second, Judge Porteous's assertion that pre-Federal bench conduct may not form a basis for impeachment finds no support in the Constitution and is not supported by any other sound legal or logical basis.[6] As a factual matter, it is especially appropriate for the Senate to consider Judge Porteous's pre-Federal bench corrupt relationship with the Marcottes where it was affirmatively concealed from the Senate in the confirmation process,

where it involved conduct as a judicial officer directly bearing on whether he was fit to hold a Federal judicial office, and where that conduct, having now been exposed, brings disrepute and scandal to the Federal bench.

ARTICLE III

The House of Representatives denies each and every statement in the Answer to Article 111 that denies the acts, knowledge, intent or wrongful conduct charged against Respondent.

FIRST AFFIRMATIVE DEFENSE

The House of Representatives denies each and every allegation of this purported affirmative defense and further states that Article III sets forth an impeachable offense as defined in the Constitution of the United States.

SECOND AFFIRMATIVE DEFENSE

The House of Representatives denies each and every allegation of this purported affirmative defense, which alleges in substance that the allegations in Article III are vague. To the contrary, Article III sets forth several specific allegations associated with Judge Porteous's conduct in his bankruptcy proceedings. There is no credible contention that Judge Porteous cannot understand what he is charged with in this Article.

THIRD AFFIRMATIVE DEFENSE

The House of Representatives denies each and every allegation of this purported affirmative defense, which alleges, in substance, that Article III charges more than one offense. The plain reading of Article III is that Judge Porteous committed misconduct in his bankruptcy proceeding by making a series of false statements and representations, and by incurring new debt in violation of a Federal Bankruptcy Court order. This Article alleges a single unified fraud scheme, with the purpose of deceiving the bankruptcy court and creditors as to his assets and his financial affairs, so that Judge Porteous could enjoy undisclosed wealth and income for personal purposes including gambling.

FOURTH AFFIRMATIVE DEFENSE

The House of Representatives denies each and every allegation of this purported affirmative defense, which, in effect, seeks to suppress the voluntary statements of a highly educated and experienced Federal judge, made under oath, before other Federal judges. Judge Porteous was provided a grant of immunity in connection with his Fifth Circuit Hearing testimony, effectively eliminating the possibility that any of that testimony could be used against him in any criminal case. An impeachment trial is not a criminal case. There is simply no credible basis to argue that the Senate should not consider Judge Porteous's voluntary and immunized Fifth Circuit testimony.

FIFTH AFFIRMATIVE DEFENSE

The House of Representatives denies each and every allegation of this purported affirmative defense—which does not take issue with the proposition that Judge Porteous committed misconduct in a Federal judicial bankruptcy proceeding, but contends only that the acts as alleged do not warrant impeachment. First, this is not an affirmative defense. It is up to the Senate to decide whether the facts surrounding the bankruptcy warrant impeachment.

Second, the Senate has in fact removed a judge for personal financial misconduct, and in 1986 convicted Federal Judge Harry Claiborne and removed him from office for evading taxes. It is significant that the Senate did not convict Judge Claiborne for the crime of evading taxes. Rather, the Senate acquitted Judge Claiborne of the one Article that charged him with having committed and having been convicted of a crime.

Third, what the Department of Justice may consider material for purposes of a criminal prosecution has nothing to do with what the Senate may deem to be material for purposes of determining whether Judge Porteous should be removed, from Office—an Office which requires that he oversee bankruptcy cases and administer and enforce the oath to tell the truth.[7]

ARTICLE IV

The House of Representatives denies each and every statement in the Answer to Article IV that denies the acts, knowledge, intent or wrongful conduct charged against Respondent.

FIRST AFFIRMATIVE DEFENSE

The House of Representatives denies each and every allegation of this purported affirmative defense and further states that Article IV sets forth an impeachable offense as defined in the Constitution of the United States.

SECOND AFFIRMATIVE DEFENSE

The House of Representatives denies each and every allegation of this purported affirmative defense, which alleges the Article is vague. The allegations sets forth in Article IV are specific and precise. In fact, Judge Porteous's description of the charge fairly characterizes the offense: ''In essence, Article IV alleges that Judge Porteous gave false answers on various forms that were presented in connection with the background investigation. . . . It is apparent, therefore, that Judge Porteous has a clear understanding of these allegations in Article IV, which specify the dates and circumstances when the statements were made, and the contents of the statements that are alleged to have been false. There is no credible contention that Article IV does not provide Judge Porteous specific notice as to what this Article alleges.

THIRD AFFIRMATIVE DEFENSE

The House of Representatives denies each and every allegation of this purported affirmative defense. The allegations set forth in Article IV are specific and precise. They charge in substance that Judge Porteous made a series of false statements to conceal the fact of his improper and corrupt relationships with the Marcottes and with attorneys Creely and Amato in order to procure the position of United States District Court Judge. Charging these four false statements, all involving a single issue, in a single Article is consistent with precedent.'

FOURTH AFFIRMATIVE DEFENSE

The House of Representatives denies each and every allegation of this purported affirmative defense, alleging that the Senate cannot impeach Judge Porteous based on pre-Federal bench conduct. First, Judge Porteous's assertion that pre-Federal bench conduct may not form a basis for impeachment is not supported by the Constitution. Notwithstanding Judge Porteous's assertions to the contrary, the Constitution does not limit Congress from considering pre-Federal bench conduct in deciding whether to impeach, and there are compelling reasons for Congress to consider such conduct—especially where such conduct consists of making materially false statements to the Senate. The logic of Judge Porteous's position is that he cannot be removed by the Senate, even though the false statements he made to the Senate concealed dishonest behavior that goes to the core of his judicial qualifications and fitness to hold the Office of United States District Court Judge. The proposition that the Senate lacks power under these circumstances to remedy the wrong committed by Judge Porteous is simply untenable.

Respectfully submitted,

THE UNITED STATES HOUSE OF REPRESENTATIVES

By

ADAM SCHIFF,
Manager.
BOB GOODLATTE,
Manager.
ALAN I. BARON,
Special Impeachment Counsel.

Managers of the House of Representatives: Adam B. Schiff, Bob Goodlatte, Zoe Lofgren, Henry C. ''Hank'' Johnson, F. James Sensenbrenner, Jr.

April 15, 2010.

ENDNOTES

[1] Judge Harry E. Claiborne was acquitted of Article III, charging that he ''was found guilty by a twelve-person jury'' of criminal violations of the tax code, and that ''a judgement of conviction was entered against [him].'' See ''Impeachment of Harry E. Claiborne,'' H. Res. 471, 99th Cong., 2d Sess. (1986) (Articles of Impeachment); 132 Cong. Rec. S15761 (daily ed. Oct. 9, 1986) (acquitting him on Article III).

[2] Moreover, the Department of Justice's investigation hardly vindicated Judge Porteous. To the contrary, the Department viewed Judge Porteous's misconduct as so significant that it referred the matter to the Fifth Circuit for disciplinary review and potential impeachment, and set forth its findings in its referral letter.

[3] Judge Porteous treats Article I as if it alleges the criminal offense of ''honest services fraud,'' in violation of Title 18, United States Code, Section 1346, and that because the term ''honest services'' has been challenged as vague in the criminal context, the term is likewise vague as used in Article I. Despite Judge Porteous's suggestion to the contrary, Article I does not allege a violation of the ''honest services'' statute. Moreover, it could hardly be contended that proof that Judge Porteous acted dishonestly in the performance of his official duties does not go to the very heart of the Senate's determination of whether he is fit to hold office.

[4] The respective Articles of Impeachment against Judges Halsted L. Ritter, Harold Louderback, and Robert W. Archbald each set forth lengthy descriptions of judicial misconduct arising from improper financial relationships between those judges and the private parties. These consist of detailed narration specifying numerous discrete acts. *See* ''Impeachment of Judge Halsted L. Ritter, ''H. Res. 422, 74th Cong., 2d Sess. (March 2, 1936) and ''Amendments to Articles of Impeachment Against Halsted L. Ritter,'' H. Res. 471, 74th Cong., 2d Sess. (March 30, 1936), reprinted in ''Impeachment, Selected Materials, House Comm. on the Judiciary,'' Comm. Print (1973) [hereinafter ''1973 Committee Print''] at 188–197 (H. Res. 422), 198–2902 (H. Res. 471); [''Articles of Impeachment against Judge Robert W. Archbald''], H. Res. 622, 62d Cong., 2d Sess (1912), 48 Cong Rec. (House) July , 1912 (8705–08), reprinted in 1973 Committee Print at 176; and [''Articles of Impeachment against George W. English,''] Cong Rec. (House), Mar. 25, 1926 (6283–87), reprinted in 1973 Committee Print at 162.

[5] The Constitution makes it clear that impeachment was not considered by the Framers to be a criminal proceeding. It provides: ''Judgment in Cases of Impeachment shall not extend further than to removal from Office, and disqualification to hold and enjoy any Office of honor, Trust or Profit under the United States: but the Party convicted shall nevertheless be liable and subject to Indictment, Trial, Judgment and Punishment,

according to Law.'' U.S. Const., Art. 3, cl. 7. Sec also, United States v. Nixon, 506 U.S. 224, 234 (1993) (''There are two additional reasons why the Judiciary, and the Supreme Court in particular, were not chosen to have any role in impeachments. First, the Framers recognized that most likely there would be two sets of proceedings for individuals who commit impeachable offenses—the impeachment trial and a separate criminal trial. In fact, the Constitution explicitly provides for two separate proceedings. . . . The Framers deliberately separated the two forums to avoid raising the specter of bias and to ensure independent judgments . . .'').

[6]As but one example, if the pre-Federal bench conduct consisted of treason, there could be no credible contention that such conduct would not provide a basis for impeachment.

[7]It should be noted that Judge Porteous has testified and cross-examined witnesses at the Fifth Circuit Hearing on the subject of his bankruptcy, and the House therefore possesses evidence that was unavailable to the Department of Justice.

[8]As but one example, Article III of the Articles of Impeachment against Judge Walter Nixon charged that he concealed material facts from the Federal Bureau of Investigation and the Department of Justice by making six, specified, false statements on April 18, 1984 at an interview, and by making seven discrete false statements under oath to the Grand Jury. ''Impeachment of Walter L. Nixon, Jr.,'' H. Res. 87, 101st Cong., 1st Sess. (1989) (Article III).

The PRESIDING OFFICER (Mr. FRANKEN). The Senator from Illinois.

Mr. BURRIS. 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. BURRIS. Mr. President, I ask unanimous consent to speak as in morning business.

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

CELEBRATING THE LIFE OF BENJAMIN HOOKS

Mr. BURRIS. Mr. President, early this morning, we awoke to sad news out of Memphis, TN. This country has lost a civil rights pioneer, a strong leader, and a witness to history.

Benjamin Lawson Hooks fought all of his life for freedom, prosperity, and universal equality. When the world was consumed by war, Benjamin put on the uniform of the 92nd Infantry Division and rendered honorable service to his country.

When peace was won and America looked inward today to address policies of discrimination and inequality, he was on the frontlines once again, standing with visionaries such as Rev. Dr. Martin Luther King, Jr.

At every turn, and at every moment in his life, he waged to fight against injustice. He became an attorney and was eventually appointed as the highest ranking Black Federal judge in the State of Tennessee. But that was only the beginning of a remarkable career in public service.

Benjamin Hooks was the first African American to serve on the Federal Communications Commission, where he spoke out against biased reporting in the media and called for minority ownership of TV and radio stations.

In 1977, he was unanimously elected as President of the National Association for the Advancement of Colored People, the NAACP—a position he would hold with distinction until his retirement in 1993 and which would come to define his career.

Throughout those tumultuous years, Benjamin Hooks was at the forefront of the nonviolent struggle for civil rights. He constantly challenged old assumptions, stood up to discrimination, and fought against those who defended the status quo.

He taught us the courage to live out our convictions. He showed us how to translate our dearest principles into words and action.

In 1980, he became the first national leader to address conventions of both political parties. He denounced those who resorted to violence, and he personally led prayer vigils, peaceful protests, and countless other popular demonstrations.

At various times throughout his career, Benjamin Hooks served as a pastor, a soldier, a judge, and a political leader. He fought for equality in the courtroom, on the pulpit, on the airwaves, and even on the battlefield, but never did he act for personal gain. Not once did he forget the cause of justice that he and others dedicated their lives to defend.

So great was the legacy of this civil rights leader, so deep was the impact he had on the fabric of our society, that even today, on the sad occasion of his passing, I cannot help but feel a lasting sense of pride in the profound and enduring accomplishments he leaves behind.

Benjamin Hooks will be sorely missed by all who knew him, particularly his family, to whom we express our deepest condolences today.

Even as we mourn his loss, I urge my colleagues to join me in celebrating his memory and honoring the living legacy he leaves behind. I am sure Benjamin would be the first to remind us that we must not pause in remembrance for long because there is much work yet to be done.

Let us take up this fight. Let us defend the principles that guided Benjamin Hooks throughout his life and embrace the spirit that drove this pioneer to reach for equality, fight for opportunity, and aspire to greatness.

I yield the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

(The remarks of Mr. SPECTER pertaining to the introduction of S. 3214 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

Mr. SPECTER. Mr. President, in the absence of any other Senator seeking recognition, 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. LEMIEUX. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

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

Mr. LEMIEUX. I ask to speak as in morning business.

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

TAX DAY

Mr. LEMIEUX. Mr. President, today is April 15. It is the day Americans are required by law to file their tax returns to pay their fair share to the Internal Revenue Service so that we can operate the Federal Government. I think it is appropriate on a day such as this to talk about the taxes and the efforts of Americans over the past months to put together their financial information to pay what they must pay to the government.

Leading up to today, Americans have been involved in that effort of carefully preparing their income tax returns. It is estimated that 7.6 billion hours of time and more than 1 million accountants were required to file this year's returns. Our Tax Code has become so complicated that it takes 7.6 billion hours for Americans to file and figure out those complicated returns, and more than 1 million accountants to help us in our efforts.

I know my wife Meike last night was up late making sure we got everything in on time. We do our own taxes, and it is not easy to understand, even for someone like my wife who is an accountant and who is trained in it.

It begs the question—why? Every time we do something in this government that does not necessarily help the folks we represent, it is our obligation to question those practices. Need the Tax Code be as difficult as it is? Need it take so many billions of hours of Americans' time, time that could be spent working, time that could be spent with their families? Need we employ 1 million service providers in the form of accountants to help us fill out all these taxes? Of course, the answer is no. There are good proposals in this Chamber and in the House to simplify the Tax Code, to make it so one can put it on one piece of paper.

My colleagues, Senator GREGG and Senator WYDEN, have such a proposal. There is a proposal in the House that offers the same type of clarity and simplicity to allow Americans, if they choose, to file taxes quickly and easily. Certainly, that is something we should undertake and be about.

But let's also ask this question: Is the amount of money that Americans pay in tax actually going to something that is effectively and efficiently administered by the Federal Government? Let's think about all of the money that Washington is taking from Americans every day—and not just Washington, our State and local authorities. In fact, when you think