

by strict adherence to the law of the Constitution. Since the majority are not always right, that adherence to the Constitution assures justice for all. The 10th amendment, then, protects the law-makers and the people to whom they are bound. This is an arrangement worth preserving.

Why then have state legislators been allowing their just powers to slip away? Federal bureaucracies are doing more and more unconstitutional runs around them.

It is time for a wake up call. As this committee prepares to take up its duties, more end runs are occurring in Washington. On Friday president Clinton traded off some of his national education standards for a couple of years, and the House voted overwhelmingly to fund charter schools by one hundred million dollars, giving them a certain autonomy if they teach performance-based education. The President, who has no enumerated authority, any more than Congress does, over education has highly endorsed charter schools as long as they teach national standards. The net effect will be the nationalizing, long term, of the school system, putting it into the hands of special interest private boards, gradually absorbing current public and private schools.

So much for elected local school boards, so much for local legislators if they let it continue.

The more these federal intrusions into education create massive failures in education, the more bent these federal "nannies" seem to be on more of the same.

Will state legislators seize the initiatives which are rightfully and lawfully theirs? If they do not, as I have said before, they will end up figure heads in a regional satrapy run from somewhere on high.

Never before in recent times has the choice been so well defined—On the one side is the Republic of the United States of America a nation under God as defined by the Declaration of Independence, a nation governed by God's law as incorporated into the Constitution. It establishes limited government, and divided powers. Most of all it leaves citizens free to guide and direct their own lives. God given rights are unalienable and may not be taken away; they are eternal.

At the opposite end of the spectrum is the United Nations Charter which enshrines the religion of man (generically speaking) as the source of rights. Man through government can give and take away rights from other men, women and children. It is government farthest from the people run by councils of "wise" men. We will have to choose whom we will serve. Knowing that where the spirit of God is, there is the spirit of liberty, I trust that citizen and legislator alike will not remove the ancient landmarks which our fathers have set.

In summary, this select committee has some very serious matters to investigate, probably the tip of the iceberg—in an ongoing chore. I wish you well and hope that you will ever keep before you the basic truths of the 10th amendment base. The law is on your side.

The PRESIDING OFFICER. The Senator from New Hampshire is recognized.

Mr. INHOFE. Will the Senator yield for a moment for a unanimous consent request?

Mr. GREGG. Yes.

Mr. INHOFE. Mr. President, I ask unanimous consent that after the Senator from Vermont takes his time, I be allowed to have 10 minutes.

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

The Senator from New Hampshire.

#### WHAT TO DO WITH THE BUDGET SURPLUS

Mr. GREGG. Mr. President, this evening we will hear from the President of the United States in his State of the Union Address. We live in a time where the United States is extraordinarily fortunate. We are at peace. We are a Nation that has great prosperity. We are a Nation with a balanced budget for the first time in 25 years. This is all good news. But there looms on the horizon a fiscal policy which, if we do not address in the coming near term, will dramatically undermine our Nation and make it difficult to pass on to our children a country of prosperity. That, of course, is the pending retirement, beginning in the latter part of the next decade, of the postwar baby-boom generation, that huge demographic group of which I and the President are members, which has impacted this country this very decade in some unique way, and which in the next two decades will, as a result of their retiring have an impact of basically bankrupting this country in the Social Security system, which so many seniors rely on, if we do not address these concerns.

The opportunity to address these concerns is today. It is much like that oil filter ad, "You can pay me now or you can pay me later." The opportunity to make changes in our Social Security system, which will allow for its solvency, allow it to be a strong and vibrant part of our fabric as a Nation, the opportunity for those changes to be effective and to be done reasonably, is much better today than if we wait for 4, 5 or 10 years.

In addition, of course, as we head into a time of surplus, there will be, as a basic policy in this Chamber and in the House, over the next few months a question of how we use that surplus. What is generating the surplus should be the first question. What is generating the surplus is the Social Security trust fund. For the foreseeable future, the extent to which we generate a surplus at the Federal level will be as a result of the fact that more people are paying Social Security taxes than are taking benefits out of the Social Security trust fund. It is not a surplus generated, therefore, as a result of the day-to-day operation of Government being in surplus, of having raised more tax revenues for the day-to-day operation of the Government—defense, education, environmental protection, building roads, for those accounts income surplus; rather, it is a surplus generated by the fact that people who pay payroll taxes are paying more in payroll taxes to support people on retirement under Social Security than they need to.

That should be retained as a primary point as we move down the road of addressing the surplus issue. Therefore, I would like to posture that if we are going to be responsible as legislators and as keepers of our Nation's future, we have an obligation to address the

issue of Social Security and address it in the short-term, rather than to wait. I also would like to suggest a manner in which we might consider addressing it. One of our goals, as we look at the issue of the surplus, should be to give people tax relief. Another goal, as we look at the issue of the surplus, should be to pay down the Federal debt. A third goal, as we look at the issue of addressing how we are going to deal with the surplus, should be to increase the savings of the American people. A fourth goal should be to assure the solvency of the most critical Federal program that we have, the Social Security system.

All four of those goals can be significantly advanced if we intelligently approach the use of the surplus and apply it to benefit the Social Security system. How can we do that?

Well, the best way would be to cut the Social Security tax. This is the most regressive tax we have. It is also the taxes generating the surplus. If we were to reduce the Social Security tax so that the average wage earner, instead of paying approximately 7½ percent, would end up paying 6½ percent; it would mean that the average wage earner in this country would receive the benefits directly of a tax cut, the purpose of which would be to refund to them the surplus which is being generated by the Federal Government.

In such a tax cut, if we were to say to the folks receiving it, the wage earners, the people paying the payroll tax, if we were to say that the tax cut must be saved in an account designated in your name, a personal savings account, such as an IRA account, then we would be accomplishing a second goal, which would be to allow individuals who are seeing retirement coming at them to begin to specifically have an account in the Social Security structure which would be in their name and on which they could participate in the investment decisions, and which would most likely return a much better return than the present Social Security system returns, and which would give them an actual savings vehicle.

Thirdly, the practical effect of cutting the tax for people who are wage earners and allowing them to save would be that we would begin the process of refunding the liability in the Social Security system. The Social Security system today has a \$3 trillion unfunded liability. So that as the postwar baby-boom generation hits the system in 2008, which is the first year when the system starts to pay more out than it takes in, there becomes a liability that must be paid for through either increased taxes or by reducing the benefit structure of approximately \$3 trillion. Well, to the extent that we can encourage people to save by cutting their taxes today and putting those tax cuts into savings accounts, we can significantly reduce the unfunded liability of the Social Security system, which will, in turn, reduce the debt of the Federal Government, which would

be another goal in using the surplus that we presently are confronting, or which we are soon to have.

So it is great news that we have this surplus. After 25 years, it is extraordinary news. But the proper management of this surplus is clearly one of the core public policy questions that we have to face as a Congress. It is my view that the proper management of this surplus should involve returning to the taxpayers the funds that were paid in, which gave us the surplus, allowing us to give the taxpayers an opportunity to save for their retirement, and to assure the solvency of the Social Security system, and to begin to pay down the Federal debt. These are the goals that I believe we should be looking at.

I am hopeful that the President, in his State of the Union Address, will set forth a process and a procedure for allowing us to reach these types of goals. So I look forward to hearing the President's proposals in his State of the Union, and I certainly look forward to the next few months as this Congress wrestles with the issue of how to preserve and protect the Social Security system at the same time that we address the budget surplus.

Mr. President, I yield back my time.

The PRESIDING OFFICER. The Senator from Vermont.

#### ICE STORMS IN THE NORTHEAST

Mr. LEAHY. Mr. President, I see my friend from New Hampshire leaving the floor, and I note that he and I have shared a difficult time in the past few weeks with the ice storms in both of our States. But both New Hampshire and Vermont are coming out well. I know that Maine is now still digging out. They have gone through a terrible time, as have the people in upstate New York, and even the Province of Quebec. I note that throughout all that time, every time I called FEMA, James Lee Witt, or anybody else at the Federal level, the response was instantaneous and effective, and that I appreciate.

#### THE ROLE OF INDEPENDENT COUNSEL

Mr. LEAHY. Mr. President, I want to discuss a serious matter. I hesitate to comment on ongoing law enforcement investigations. I have always felt that way.

I am not going to jump into the swirling mix of rumor and revelation and innuendo that has transfixed many in Washington over the last several days. I spent nearly a decade as a prosecutor. I have a very strong sense of what prosecutors should and can do. I am one who has tried to keep any kind of ideological partisanship out of law enforcement decisions. I did that during the time I was a prosecutor, and I have urged that same thing to prosecutors since.

But I am troubled that the independent counsel law has itself been cor-

rupted and no longer serves its intended purpose. The law was part of a congressional effort to create a mechanism that would reassure the American people that partisanship was not influencing prosecutorial decisions, and that law enforcement judgment was being exercised by those who did not have an ax to grind either way—by those who approached matters from a law enforcement point of view, and not—not—from a lodestone set in a partisan rock.

I cannot say with confidence that this is the case with the current Whitewater counsel. I look at the continuing and very selective leaks and tactics employed by Mr. Starr's office over the last few years, and particularly over the last few days. And, like so many other Vermonters and so many other Americans, it gives me pause to see these kind of tactics that no prosecutor should ever condone in his or her offices.

I have seen reports that two weeks ago he was intent on constructing a sting operation to engage the President of the United States in secretly recorded conversations. Have we sunk this low, Mr. President, that we would do things like this?

I have seen complaints that he sought to pressure a young woman and threaten her mother and father if she did not cooperate in allegations that she was counseled to lie under oath.

Maybe I am missing something here, Mr. President. But this is a far distance from investigating a decade-old land deal in Arkansas. Having spent more than \$30 million of taxpayers' money in what apparently became a self-perpetuating investigation, the goal now seems to go about getting the President by whatever means necessary.

Last summer I was critical of efforts by Mr. Starr's office to involve itself in allegations of marital infidelity. The justification then to justify the leaks coming out of Mr. Starr's office was that maybe pillow talk might lead to the discovery of some evidence relevant to this decade-old land deal in Arkansas.

Now it seems that the current activities of Mr. Starr's office seem oddly coordinated to aid in a civil lawsuit against the President. The Paula Jones case has had a gag order on it from the beginning. Yet every single day we find the lawyers and those allied with Ms. Jones selectively leaking depositions and court proceedings to the public. Almost in conjunction—almost in the same package—we see items selectively leaked from Mr. Starr's office with one passing the other. You would think it was the same law firm carrying out this civil case. I have never ever seen a prosecutor do something like that in a State court, a Federal court, or any kind of a case.

Having been a prosecutor, I have a sense for the enormous power in that office. If you have \$30 million to spend you have the most power any prosecu-

tor could ever have. But with that power comes a responsibility. Decisions about what to pursue and what to prosecute are among the weightiest exercises of public authority. Exercised irresponsibly and without accountability the prosecutor's power is easily abused and is left to go towards effectively partisan purposes.

My point is that at this juncture we need an independent counsel who is clearly removed from partisanship and who can exercise independent judgment. But the country has neither. This is the most partisan, unjustified, demeaning investigation that I can ever remember in my life. Rather than succeed in insulating the power of the prosecutor from abusive partisan purposes, the independent counsel law appears to have captured partisan forces. This goes beyond any question of what might have happened in Whitewater or anywhere else. It is the tactics being used. The tactics tend in many ways to become so outrageous that they can only be considered partisan. If you want people to have confidence in the result of an investigation, then the investigation has to be nonpartisan, and it has to be perceived to be nonpartisan so that all people can respect what comes out of it.

Frankly, Mr. President, from what I am hearing throughout the country, as well as in my own State, people do not expect any idea of impartiality or non-partisanship from the prosecutor's office. I hope that Mr. Starr will quickly take steps to change that, and will quickly take steps to stop having his office somehow coordinating itself with a civil case, a civil case involving Paula Jones.

I say this because the country is facing some other issues that also have to be attended to.

On Friday I flew back to Vermont, as I do so often during the month, and I picked up every newspaper that I could on the way up just to read in the airplane. There on the front page of a major newspaper were all of the stories of what leaks are coming out of the Paula Jones case and what leaks are coming out of Mr. Starr's office. Tucked almost as an afterthought were such stories as this: The Pope making a historic visit to Cuba, with all the ramifications that means; Microsoft's settlement with the Justice Department and implications that is going to have for jobs and consumer protection in the years to come; the Unabomber, who terrorized this country for years, pleads guilty; U.S. forces move to arrest a war criminal, something we have not seen I don't think since the time of Nuremberg; the successive visits by Benjamin Netanyahu and Yasser Arafat to this country and the implications on the peace process for the Middle East. There are other such significant stories: The question of whether we are going to have to go into Iraq and act unilaterally because our allies don't appear to have the guts to stand up to Saddam Hussein. All of these