

created in the operations of his office. It started at the time of his appointment. Mr. Starr was an active partisan who had served as Finance Chair for a Republican Congressional campaign in Virginia and who had himself recently contemplated a run for the Republican nomination to the U.S. Senate in Virginia. Within weeks of the filing of the Paula Jones civil suit in May 1994, Mr. Starr appeared on television and espoused a legal position against the President. (He also began discussions with the Independent Women's Forum about filing a legal brief on Paula Jones' behalf in opposition to efforts by the President to have the litigation postponed.)

The appointing court informed my staff it was not aware at the time of the appointment that Mr. Starr had expressed a position against the President in the Paula Jones case. As senior Democrat on the Senate subcommittee charged with oversight of the independent counsel law, I urged the court shortly after Mr. Starr's appointment to make a fuller inquiry into Starr's apparent lack of objectivity about the President and based upon what the court learned, reconsider Mr. Starr's appointment. The court issued an order stating that, once it had exercised its appointment authority, it was without power to reconsider appointment of an independent counsel. The New York Times called on Mr. Starr to withdraw, while five past presidents of the American Bar Association warned the court that it needed to repair its appointment procedures to ensure a selection process with the reality and appearance of objectivity.

While in office, Mr. Starr only reinforced the initial concerns about his impartiality and judgment. For example, one month before the 1996 election, he accepted a speaking engagement at Pat Robertson's university at the request of Pat Robertson, including a press conference with Mr. Robertson, a visible and vocal opponent of the President with a history of public statements raising questions about Vincent Foster's death, then being investigated by Mr. Starr. In 1997, Mr. Starr announced his intention to accept a position at Pepperdine University at a program funded with millions of dollars provided by Richard Scaife, another declared opponent of the President and a chief funder of several organizations working on investigations into President Clinton, including the Paula Jones case. (He subsequently reversed course and stayed in office.)

During his employment with the federal government as independent counsel, Mr. Starr continued his law practice at the firm of Kirkland and Ellis. He continued to receive his full annual remuneration as a partner and continued to handle a number of very high profile cases, a number of which involved issues where Mr. Starr represented the position directly contrary to the Clinton Administration position.

In February 1998, Mr. Starr's law firm apparently sent the Chicago Tribune

copy of an affidavit of a witness in the Paula Jones case that was to be filed in that case—before the affidavit had been filed in court. While Mr. Starr's firm denied assisting Jones' legal team, it also resisted responding to a subpoena issued by the President's counsel relative to the sending of that affidavit. Also, the press reported that a former counsel to Paula Jones, Joseph Cammarata, admitted that he had sought legal advice on several occasions from one of the firm's partners, Robert Porter. So while Mr. Starr was working as independent counsel and continuing to serve as a partner at Kirkland and Ellis, one of his law partners allegedly was providing legal advice to the counsel in the Paula Jones case, in possible violation of the independent counsel law which prohibits "any person associated with a firm with which (an) independent counsel is associated" from representing "any person involved in" any investigation conducted by such independent counsel.

#### CONCLUSION

The position that Mr. Starr occupies is a position of public trust and duty, designed to be free from politics and partisanship, a position with powerful tools for investigation, unlimited but for the parameters of the independent counsel law and for the common sense and good judgment of the person holding the office.

Kenneth Starr has acted with no effective limits, because although he is subject to the ultimate authority of the Attorney General, given her power to fire him for cause, she is effectively powerless to rein in his excesses because her discharge of him would be so reminiscent of the "Saturday Night Massacre" in which Archibald Cox, the prosecutor investigating Richard Nixon, was fired. (In fact, the Attorney General has already been threatened with impeachment simply because she has taken a stand to protect her ongoing criminal investigations and prosecutions with respect to campaign finance abuses.)

I have urged the Attorney General, by letter, to go to court to enforce the requirement that Mr. Starr abide by the policies of the Department of Justice. She has not responded and perhaps could not because, I am speculating here, it could make it even more difficult for her to finally act to restrain Mr. Starr should she decide to do so, as it might appear that she was doing so under pressure.

Some Democrats are reluctant to speak out against Mr. Starr's abuses of power out of fear that they will be perceived as defending the President's actions. Some Republicans I have spoken with, who feel Mr. Starr has gone too far, won't say so publicly because of the negative reaction it might engender in some circles in which they must function.

It will be difficult in this environment to salvage the legitimate goal of the independent counsel law when it expires next year.

Any hope of achieving the radical surgery needed to prevent a prosecutor from abusing the powerful tools provided an independent counsel will depend on Democrats and Republicans who still believe in the legitimate purpose of the independent counsel law working together. Only such a bipartisan effort has a chance of stitching into the independent counsel law's fabric, now stretched beyond recognition, limits on the exercise of an independent counsel's power which are so essential in our constitutional design of checks and balances to prevent abuses in the exercise of governmental power.

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

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

Mr. SESSIONS addressed the Chair.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. Mr. President, I ask unanimous consent to speak as if in morning business for approximately 10 minutes.

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

#### THE INDEPENDENT COUNSEL

Mr. SESSIONS. Mr. President, I just had the opportunity to hear the remarks of the distinguished Senator from Michigan concerning the independent counsel.

I must say that those remarks are troubling to me and I do not believe contribute to really the kind of bipartisan effort that we need to make here in this body with regard to the delicate problem of the President's troubles.

It was raised under the pretension or the suggestion as part of an evaluation of the independent counsel but really amounted to, I think, an unfair restatement of many charges that have been made against the independent counsel, most of which I believe have already been answered, or could be answered pretty easily.

I served as a prosecutor for a number of years, and I would like just to share some thoughts.

I prosecuted a number of government officials. And it was my experience during that process that government officials, more than any other person I had the occasion to investigate, were the most aggressive and most impossible to the prosecutor. It is part of their team effort with their attorneys to attack the person who is out speaking the truth.

It is not an easy job for this independent counsel to obtain the truth. These officials don't want it out. It is not their choice. It is not their preference, or their desire, that what they may have done is revealed, particularly if what they have done may involve perjury or some illegality.

So it is not an easy thing to do. And when the independent counsel was charged with going out and finding the truth, he faced a systematic effort to

obfuscate that truth. I wish it weren't so, but that is what appears to be.

So now when we get through this process—it took several years to finally get this information that we now have—we have Members of the other party wanting to come in here and attack the man who ultimately produced what appears to be the truth. At least I have not heard it substantially disputed. And he submitted a report. They said, "Oh, well." Judge Sirica, he said, wanted to review the grand jury testimony. That was before the independent counsel law. That was an unprecedented thing, I suppose, for Judge Sirica to report grand jury testimony. There was no law.

But now, under the independent counsel law, the independent counsel is required to submit the information that he finds to the Congress, to the House of Representatives. That is what his duty was—to find out the truth and to submit it. And it was not easy to find the truth. It often is not. It was particularly difficult with the clever people he was dealing with in this instance.

So it just disturbs me, I must say. And if it is true, if he has so violated his oath, the Attorney General can remove him from office. If she has a basis for it, she ought to do it. And she will not be criticized by this Senator.

So they say, "Well, his duty is to prosecute fairly." Well, you don't prosecute until you get the truth. You don't prosecute until you get the facts. And his responsibility was to find those facts.

They say graphic details were not necessary. Well, I am glad that we have some fastidious concern. I think we do have too much unhealthy sex and stuff in this country today. But we have a denial. We had a suggestion that, "What I did was not really sex."

So I suppose the details of what the President may have done are relevant to whether or not he had sex or not, and I am certain that is why the independent counsel felt it was his obligation to do so. And his goal is to report that information.

They say, "Well, he shouldn't have suggested in his report that the President lied under oath." That is one of the words that was said he used. But he was required to report on matters that may lead to impeachment charges.

So by nature his summary report was his opinion as to whether or not there was evidence accumulated sufficient to lead to impeachment. He is required to give his opinion and his summary of the evidence as to whether or not it required impeachment, and he concluded, based on all the studies, that the President lied under oath, apparently, and he put that in his report.

I submit he was required to do so.

Oh, they say, you didn't get all the exculpatory evidence, that that didn't all come out, and that she said, Miss Lewinsky said, "No one ever asked me to lie." Well, I am not sure and therefore—but from what I read in the re-

port, it would suggest to me that the Starr report didn't say anybody ever said she was asked to lie. The Starr report simply said that there were circumstances that led to that, apparently. But it did not use those words and he would not have been required to put forth her statement in that regard.

So Judge Sirica's circumstances are not quite the same, is all I am saying. And I respect the distinguished Senator and his comments and his concern, and we ought to hold every public official accountable. We ought to scrutinize all of our behavior here and we ought to be prepared to stand the heat. I am sure Mr. Starr has got to stand the heat like everybody else if he is going to be in the kitchen. If you recall, we have a word in the criminal lexicon today called "Sirica." And what happened was, if you will recall, some of those burglars who said, oh, this is just a two-bit burglary—do you remember that? Judge Sirica gave them the maximum sentence, the maximum "John," and that is when they testified.

So I am sure these things are tough for Miss Lewinsky or anyone else. She had a choice whether she was going to cooperate and tell the truth or continue to hold fast to her previous story, and it does appear that she did for a while adhere to one story and then changed it.

So I don't believe the independent counsel has placed himself above the law. I don't believe he has abused his office. And I don't believe most of the other complaints that have been made about the independent counsel, once the full facts are out, are going to suggest any problems. No doubt, there are so many complex rules over the period of an investigation, somebody will say you should have done this under this circumstance and you should not have done this under that circumstance.

Normally what happens is any evidence obtained from an improper source gets excluded from the trial and can't be used, but it doesn't undermine the overall integrity of the investigation if that was obtained properly.

So I don't know what the end of this will all be. It would please me if things get settled and that is the end of it and this body isn't involved. I don't think we need to be debating these issues on this floor, and the only reason I have spoken on this floor fundamentally is because others have made statements related to those issues, so I felt I ought to suggest there might be another interpretation that could be given to those issues.

So, to me, the issues are complex. The House is dealing with this matter. Let's let the House deal with it. Let's try to make sure we have a bipartisan effort, or a nonpartisan effort, that no partisanship should be involved in this. Let's let the process work its way. My understanding of the reputation of Judge Starr is it is very good, and it remains to be seen whether he committed any error. If he did, that will come

out. That does not undermine the basic facts we are dealing with here.

Mr. President, I thank this body for allowing me to make these comments. I have some other things I could say but I will not. I just believe that we need to be careful. Let's let the House do their business. They have had votes over there. It is their business, not our business. And I think we would be better off if we left it there. I thank you.

I yield the floor.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, what is the business before the Senate?

The PRESIDING OFFICER. The Senate is in morning business.

Mr. BYRD. I thank the Chair. Is there a limitation on time?

The PRESIDING OFFICER. There is not any limitation.

Mr. BYRD. I thank the Chair.

#### A HERO MOVES ON

Mr. BYRD. Mr. President, the Random House College Dictionary defines the term "hero" first as "a man of distinguished courage or ability, admired for his brave deeds and noble qualities," and second as "a small loaf of Italian bread."

There is, of course, a wide disparity in these two definitions. I think I shall appropriately use the initial definition to describe the hero of whom I am about to speak, Senator JOHN HERSCHEL GLENN, Jr. I have had the honor of serving with him in the Senate for the last 24 years.

He is a gentleman. He is a great public servant to all the Ohioans whose beliefs and values he has so ably represented in this body.

As Senator GLENN prepares to officially retire from the Senate and take up his wings of flight once again, I shall take a few minutes to thank this distinguished Senator from Ohio for all that he has done for our Republic as a United States Senator and as a hero.

I thank him for his achievements as a Senator. I thank him for his dedication to the Senate Governmental Affairs Committee, on which he has served since 1975.

Following his personal motto: "You Keep Climbing," Senator GLENN has moved up in the ranks.

From 1987 to 1995 he served as the chairman of the committee, and then as the ranking Democratic member until the present time.

As a member of the committee, Senator GLENN has worked to protect our Nation and its people, using his expert knowledge to combat the issue of nuclear proliferation, to protect our fellow Americans from all the environmental dangers that are associated with the byproducts of nuclear weapons, and is making the Government more accountable for waste and fraud.

As a member of the Senate Committee on Armed Services, on which I am pleased to serve with him, Senator