lives in jeopardy, all in the defense of the ideals we hold dear.

This month, New Mexico lost one of those brave soldiers. His name was James Thode. He was a 45-year-old married father of two who had served for 14 years as a police sergeant for the city of Farmington. He was in Afghanistan as a member of the Utah National Guard as a sergeant first class in the 118th Sapper Company.

Sergeant Thode was killed by a roadside bomb on December 2 when insurgents attacked his unit in Afghanistan's Khost province.

Too often, when we are faced with the loss of one of our brave men or women in uniform, the first thing that is talked about is how they died. A roadside bomb. A firefight with the enemy. Protecting a fellow soldier from harm.

That is important. But it is equally important that we remember how they lived.

That is what I would like to do today. I want to remember how Sergeant James Thode lived.

Those who served with Sergeant Thode saw him as a father figure to the younger soldiers. ''The glue that held people together,'' said one.

He was ''a humble person, soft spoken and had a way of connecting with everybody he met,'' said another.

A third soldier recalled that Thode had an opportunity for a command position with a different unit—but he, quote, ''chose to stay with his men, knowing the risk.''

When he deployed to Afghanistan in July, Sergeant Thode left behind his wife Carlotta and their two children, 18-year-old daughter Ashley and 8-year-old son Tommy. It was his second deployment. His first was to Iraq in 2003.

Back at home, Thode had served as a member of the Farmington Police Department since 1996 as a field training officer, member of the SWAT Team, and eventually a member of the detective unit.

Sergeant Thode was well-known and well-respected within the close-knit Farmington community. As Farmington Police Chief Kyle Westall said upon learning of Thode's death, ''The community lost a truly great man who will be missed by many.''

Sergeant Thode lived a life to which we all should aspire—a life of service to family, community and country.

To Sergeant Thode's wife, children, parents, sister, and extended family and friends, my wife Jill and I offer our deepest sympathies for your loss, and our deepest thanks for your loved one's service to our country. You are forever in our hearts, and we are forever in your debt.

PORTEOUS IMPEACHMENT

Mr. LEVIN. Mr President, today we are involved in one of the most important functions of the U.S. Senate, and one of the most rare. Only 11 impeachment trials have been completed over the 221-year history of the Senate.

Article II of the U.S. Constitution gives the ''sole Power to try all Impeachments'' to the Senate, and we take this role very seriously. Judges may be impeached and, if convicted, removed for ''Treason, Bribery, or other high Crimes and Misdemeanors.'' Neither the Constitution nor statute define ''other high Crimes and Misdemeanors.'' So it is up to each one of us to determine what actions reach the level of impeachable offenses egregious enough to remove a Federal officer such as a district court judge.

It is important that the judges that we confirm to lifetime appointments have the utmost integrity. Anything less would undermine public confidence in the judicial system which has such a major impact on the lives of Americans. These votes are among the most important and difficult that we cast.

Today I will vote to convict Judge Porteous on the basis of articles I through III. Those articles allege that Judge Porteous engaged in corrupt behavior with a law firm, had significant financial ties to that firm, but failed to recuse himself in a case where that same law firm represented one of the parties, improperly and unethically solicited and received a financial gift from a lawyer while he had that lawyer's case under advisement, and solicited favors from a bail bondsman and the bail bondsman's sister while using the power and prestige of his office to provide assistance to them and their business and made material false statements in conjunction with his personal bankruptcy filing.

I believe that Judge Porteous is guilty of the actions outlined in those three articles which prove and that he is unfit to serve as a U.S. district court judge.

I cannot, however, vote to convict Judge Porteous on the basis of article IV. Unlike the previous three articles that allege objective behavior to prove impeachable offenses, article IV is subjective: It requires us to determine Judge Porteous' state of mind—what he was thinking and how he felt about his past behavior. Article IV alleges that Judge Porteous ''knowingly made material false statements about his past to both the United States Senate and to the Federal Bureau of Investigation in order to obtain the office of United States District Court Judge.''

Specifically, article IV states that Judge Porteous was asked if there was anything in his personal life that could be used by someone to coerce or blackmail him, or if there was anything in his life that could cause an embarrassment to Judge Porteous or the President if publicly known. Judge Porteous answered ''no'' to those questions. During his background check, Judge Porteous told the Federal Bureau of Investigation on two separate occasions that he was not concealing any activity or conduct that could be used to influence, pressure, coerce, or compromise him in any way or that would impact negatively on his character, reputation, judgment, or discretion. Finally, Judge Porteous was asked whether any unfavorable information existed that could affect his nomination. Judge Porteous answered ''no,'' to the best of his knowledge.

Did Judge Porteous believe those answers were true when he made them? I do not believe that we should impeach and convict a person based on his or her beliefs or his or her state of mind. If we did, we would be removing someone from office without evidence he was intentionally lying, not about an objective fact but about what he believed at the time of his statement. Beyond that, it is a statement about a subjective issue. Judge Porteous may have believed that none of his conduct, if known, would be embarrassing to the President, or that nothing in his past could be used to improperly influence him, even if the Senate disagrees with that belief. We should remove someone from office based on his conduct or on his objectively false material statements of fact, not on subjective statements about subjective judgments.

Assume that a candidate for the Federal bench in an answer to a question of the Judiciary Committee or Department of Justice said that nothing in his past would embarrass the President if known. After he is confirmed as a judge, he is involved in a messy divorce and it is discovered that the judge had had a series of extramarital affairs in the few years before he answered the questionnaire that he knew of nothing in his past that would embarrass the President. Assume further that in the judgment of the House, that behavior does embarrass the President. Under the theory of article IV, the judge's answer would constitute an impeachable offense. Article IV creates a precedent that is too potentially dangerous for me to support.

To quote from page 60 of the Report of the Impeachment Trial Committee, ''Professor Mackenzie also testified that while the compromise-or-coercion question is asked 'routinely' of ''virtually everybody who is interviewed,'' he could not recall any candidate who had ever responded affirmatively to this question. Nor was he aware of any individual who has ever responded affirmatively to a question that asks the candidate to 'advise the Committee of any unfavorable information that may affect your nomination' or any nominee who had ever been prosecuted or removed from office for falsely answering such a question.''

It is our solemn responsibility to protect the integrity of the Federal judiciary and the public trust in our judicial system. Today we will fulfill that role.

Mr. BINGAMAN. Mr. President, the Senate has found G. Thomas Porteous, Jr. guilty of the charges contained in four articles of impeachment and removed him from office as a Federal district judge. In addition, it has adopted a motion disqualifying Mr. Porteous from ever holding any office of honor, trust, or profit under the United

States. Although I voted guilty on all four articles of impeachment, I voted against the motion to disqualify Mr. Porteous from future office. Although the Constitution clearly gives the Senate the power to disqualify a person from holding future federal office upon impeachment, I do not believe that sanction was justified in this case, viewed in light of previous judicial impeachments.

Under our Constitution, impeachment is a remedial measure, not a penal one. Its purpose is to not to punish wrongdoers, but to protect our government against official misconduct by removing corrupt officials from office. As Justice Story put it, impeachment ''is not so much designed to punish an offender, as to secure the state against gross official misdemeanors.''

The Framers of our Constitution borrowed the idea of impeachment from Great Britain. But in Britain, in the centuries before the adoption of our Constitution, impeachments were used to punish as well as to remove from office. Impeachment by the British Parliament could result in fines, imprisonment, and even death. The Framers of our Constitution wanted none of that. They wove safeguards against legislative punishments throughout the Constitution, in the prohibitions against bills of attainder and ex post facto laws, in an independent judiciary, and in the due process clause of the fifth amendment. Most clearly, they spelled out their design in the impeachment clause itself, which states that ''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.''

Although united in a single sentence, ''removal from Office'' and ''disqualification to hold . . . Office'' are separate and distinct remedies. They are treated as separate and distinct in our rules and in our precedents. Removal from office follows automatically upon conviction. It does not require a separate motion or vote. Disqualification from holding office in the future is discretionary. A separate motion and a vote on the motion are required.

Like removal, disqualification is remedial. It protects the integrity of our government by declaring persons found guilty of corrupt behavior unfit for Federal office. It is not unique to impeachment, but can be found in a number of federal statutes that disqualify persons convicted of certain crimes, typically involving official misconduct. As the Supreme Court has said, it is ''a familiar legislative device,'' and ''Federal law has frequently and of old utilized'' it. This is from De Veau v. Braisted, 363 U.S. 144, 158–159, 1960.

But disqualification also has a punitive dimension to it. In the same paragraph of his Commentaries on the Constitution in which Justice Story said that impeachment is not ''designed to punish an offender,'' he referred to ''the punishment of disqualification.'' The Supreme Court also said that ''Disqualification from office may be punishment, as in cases of conviction upon impeachment.'' This is from Cummings v. Missouri, 77 U.S. 277, 320, 1867—stating that disqualifications in Missouri's Constitution ''must be regarded as penalties —they constitute punishment''.

Because of the punitive aspect of disqualification and because the Senate's decision to disqualify a person is not subject to judicial review, see Nixon v. United States, 506 U.S. 224, 1993, the Senate's decision to impose disqualification is an especially grave one. The Senate has historically treated it as such. Out of the seven previous impeachment cases that resulted in a conviction since the Nation's founding, the Senate has impose disqualification in only two cases, one involving West Humphreys in 1862 and the other involving Robert Archbald in 1913. A motion was also made to disqualify Halsted Ritter following his conviction in 1936, but the Senate voted unanimously not to disqualify him. Thus, the Senate has not imposed the grave sanction of disqualification for nearly a century, between the impeachment of Mr. Archbald in 1913 and that of Mr. Porteous this week. None of the three judges convicted and removed from office in recent times—Harry Claiborne in 1986, Alcee Hastings in 1989, or Walter Nixon, also in 1989—have been disqualified.

As Judge Sporkin said in connection with the impeachment of Judge Hastings, ''impeachment must be invoked and carried out with solemn respect and scrupulous attention to fairness. Fairness and due process must be the watchword whenever a branch of the United States government conducts a trial, whether it be a criminal case, a civil case or a case of impeachment.'' This is from Hastings v. United States, 802 F. Supp. 490, 492, D. D.C. 1992, vacated on other grounds, 988 F.2d 1280, D.C. Cir. 1993.

Fairness, I believe, requires proportionality. As the Supreme Court has often said, ''it is a precept of justice that punishment for crime should be graduated and proportioned to offense.'' This is from Weems v. United States, 217 U.S. 349, 367, 1910. There are two dimensions to proportionality. The first, rooted in Magna Carta, is that the punishment should fit the crime, and the harshness of the penalty should be proportionate to the gravity of the offense. Unquestionably, the impeachment charges upon which the Senate convicted Mr. Porteous are serious and, measured by the gravity of the offense alone, conviction on these charges might well warrant the sanction of disqualification.

But proportionality ought also to be measured against the punishments imposed on others impeached and convicted of comparable offenses. See Graham v. Florida, 130 S.Ct. 2011, 2040–2041, 2010, Chief Justice Roberts, concurring. Here, I think it is hard to justify disqualifying Mr. Porteous from holding future office when the Senate imposed no such disqualification on any of the other judges impeached and convicted for misconduct over the past 97 years. If there were considerations in this case that justify disproportionate punishment that were not present in the previous impeachments, they were not made clear at the trial.

As Chief Justice Roberts recently wrote, ''the whole enterprise of proportionality review is premised on the 'justified' assumption that 'courts are competent to judge the gravity of an offense, at least on a relative scale.'''' This is from Graham v. Florida, 130 S. Ct. 2011, 2042, 2010, Chief Justice Roberts, concurring. Although the Senate sits as a ''court of impeachment'' to ''try'' impeachment cases, we are not sentencing judges and are not bound by judicial principles of proportionality. We possess what Alexander Hamilton described in Federalist No. 65 as the ''awful discretion . . . to doom'' people ''to infamy.'' Our judgments are not subject to judicial review. But for this very reason, I believe that we should only impose the punishment of disqualification with what Judge Sporkin called ''scrupulous attention to fairness,'' and some reasonable sense of proportion relative to previous, comparable impeachments. I do not believe that disqualification was a proportionate punishment in this case, and for that reason, I voted against the motion to disqualify Mr. Porteous.

Mr. WHITEHOUSE. Mr. President, while serving on the impeachment trial committee, I heard evidence that convinced me that Judge Thomas Porteous had a long history of corrupt behavior, deceived this body during the pendency of his nomination to serve on the federal bench, failed to meet the ethical standards we expect of Federal judges, and should be removed from the bench. The Senate was right to convict him and to bar him from future Federal office.

In light of the precedents this body inevitably sets in deciding to remove a Federal judge from office, the Senate must be thoughtful about the implications of our decisions on future impeachments. In this case, I believe that is particularly true with respect to the issue of aggregation of the Articles of Impeachment. Although the outcome of this trial may not turn on that question, it is fairly raised here, and calls to mind the prospect that in the future, House impeachment managers might be tempted to package a disparate bill of complaints against a President or Supreme Court Justice into a single article—hoping that added together, the charges will attract the votes of enough Senators to convict. I believe we should mark in this proceeding our view that the House of Representatives must be scrupulous about properly crafting Articles of Impeachment in all future cases.

Senators who have served as prosecutors will know that, under the ''duplicity'' doctrine, a prosecutor cannot join

together two or more distinct offenses into a single count of a criminal indictment. Thus, a single count cannot charge a criminal with kidnapping and murder. Instead, each charge must be placed in a different count so that the jury can vote separately on each count of the indictment.

This prohibition against aggregated or duplicative counts in an indictment protects a defendant's constitutional due process rights, including rights to fair notice and to a unanimous jury verdict. The First Circuit Court of Appeals has explained that this prohibition ''arises primarily out of a concern that the jury may find a defendant guilty on a count without having reached a unanimous verdict on the commission of any particular offense.'' The Third Circuit explained, in United States v. Starks: ''there is no way of knowing with a general verdict on two separate offenses joined in a single count whether the jury was unanimous with respect to either.''

An impeachment trial is not a criminal proceeding. The charges against Judge Porteous are described in Articles of Impeachment, not counts in an indictment. The constitutional rules of criminal procedure do not bind this body sitting in an impeachment trial. Rather, the Senate works with the constitutional standard of ''Treason, Bribery, or other high Crimes and Misdemeanors,'' the latter language of which does not define the specific elements of a removable offense. Because of numerous important differences between an article I Senate impeachment trial and an article III criminal trial, I think Articles of Impeachment need not be divided into distinctive counts to the full extent that a criminal indictment must.

Nonetheless, there are principles of fairness at the heart of the doctrine of duplicity that should be honored. Article I, section 3 of the Constitution requires a two-thirds vote of the present Members of this body to convict a defendant during an impeachment trial. This suggests that there should be in the Senate a minimum level of agreement on the offense—67 votes, to be exact of which the defendant is convicted.

It would strike me as suspect, for example, to convict a defendant of a single article that alleged that the defendant had committed treason and, 10 years later, had committed bribery. In that case, 30 Senators might believe he was guilty of bribery, and 40 Senators might believe he was guilty of treason. That would add up to 70 votes to convict even though 70 Senators believed he had not committed bribery, and 60 believed he had not committed treason. Surely that was not the Founders' intent.

Under another scenario, however, an article of impeachment might allege that a defendant, on one tax return, failed to disclose income from an investment, failed to disclose another investment entirely, and took a false deduction on yet a third investment, and then lied to IRS investigators during the following audit. I believe the Senate should be able to convict such a defendant for a single high crime or misdemeanor of willful tax evasion.

I understand the school of thought that the only procedural protection an impeachment defendant enjoys is the supermajority requirement of 67 votes, and that it acts as a catch-all: Whatever procedural concerns there might be are swept away if a two-thirds supermajority agrees. Under this view, the duplicity concern, or any other, simply doesn't matter. Sixty-seven votes solves that—and every other procedural problem. I am not comfortable with that view.

Instead, it is clear to me that there should come a point where an Article of Impeachment must be rejected for inappropriate aggregation of multiple offenses. That line falls in a different place in the impeachment context than it does in the criminal justice context, but exactly where it falls and how to define it is no easy question.

Each Senator must arrive at his own standard for what conduct may be aggregated within a single article. However, as a general rule, I would suggest that the distinction between an unacceptably aggregated Article of Impeachment and an imperfectly drafted, yet ultimately acceptable, article turns on whether, at bottom, the article is alleging a single core offense. And I believe the appropriate remedy when a Senator concludes that an article is improperly aggregated is for the Senator to vote ''not guilty'' on that article.

I voted against the defense's motion to dismiss the articles on the basis that they improperly aggregated multiple factual charges that belong in separate articles, and its incorporated request that the Senate carve up the Articles of Impeachment brought by the House into small pieces for the purposes of voting. I don't think that is our role. The House chose to draft the articles as it did, and the Senate—in the role of adjudicator—should not be in the business of rewriting the prosecutor's charging sheet. The House was entitled to an up-or-down vote on each article, not on only portions of each article. It sets a bad precedent to put the Senate in the position of drafting or altering the charging document on which it must vote.

In contrast, I voted against the second Article of Impeachment. It alleges multiple separate and distinct offenses, united by a common thread: the judge's ''corrupt relationship'' with the Marcottes, which spanned over 20 years. The aggregation of multiple distinct offenses within the article, tied by only a ''relationship,'' creates significant uncertainty about what the Senate is voting on. Some Senators might find Judge Porteous guilty on allegations of corrupt bond-setting. Others might believe that the Judge did not set bonds improperly, but acted corruptly in expunging the sentences of employees of the Marcottes. Still other Senators might believe that this pre-Federal conduct was not proven, but that the Judge should be convicted based on a series of lunches he participated in as a federal judge, or setting the Marcottes up with a successor judge. Put simply, this body could conceivably find Judge Porteous guilty of article II without agreeing which of multiple separate offenses linked by a long-term relationship was the ground for the conviction. The aggregation of charges in this article falls too close to the line for me, and so I voted ''not guilty'' on article II.

The remaining articles raised no comparable concerns, so I have voted to convict on each.

The first article of impeachment alleges that Judge Porteous improperly denied the recusal motion in the Lifemark case; in the course of doing so, failed to disclose his relationships with attorneys practicing before him; failed to disclose that he had improperly solicited and accepted thousands of dollars from those attorneys while the case was under advisement; and ultimately resolved the case in a manner suggesting that his decision was affected by his financial and personal relationship with the attorneys. Fundamentally, these allegations can be considered together to constitute a single impeachable offense of corruptly handling a single case; indeed, at its heart, a single motion to recuse. I believe that the House proved these allegations, and so voted to find Judge Porteous guilty on this article.

Article III makes several allegations related to Judge Porteous's bankruptcy. But these can be grouped together under the single rubric of bankruptcy fraud related to a single filing: the false name, failure to disclose assets, and assumption of unlawful debt were all part of a single scheme to defraud the creditors in his own bankruptcy proceeding. I am comfortable that the House proved these claims, and so voted to convict Judge Porteous on article III.

Similarly, although article IV alleges that the Judge failed to disclose various types of conduct at various stages of the confirmation process, this conduct is fairly characterized as establishing a single high crime or misdemeanor of knowingly making material false statements in order to secure Senate confirmation. All of these allegations relate to a single confirmation, and the preparation of a single confirmation package for Senate review. Again, I believe that evidence supports these allegations and that Judge Porteous should be convicted of article IV.

Having voted to convict on these three Articles of Impeachment, I voted to bar Judge Porteous from future federal office.

ADDITIONAL STATEMENTS

TRIBUTE TO CLARION FELCHLE

● Mr. JOHNSON. Mr. President, today I recognize the public service career of Clarion ''Clem'' Felchle, who will retire from the U.S. Postal Service on January 3, 2011, after 36 years of Federal service.

Clem's career with the U.S. Postal Service began as a distribution clerk in Grand Forks, ND, followed by tour supervisor of mails in Bismarck, ND; superintendent of postal operations in St. Cloud, MN; director of city operations, director of mail processing and manager of processing & distribution, Fargo, ND; postmaster, processing & distribution manager in Sioux Falls, SD; bulk main center manager, Kansas City, KS, with his final assignment as Dakotas district manager in Sioux Falls. He received PCES Superior Achievement awards in 2006 and 2007, as well as the ''Above and Beyond'' award given by the National Employer Support for the Guard and Reserve for his strong support of our Nation's military.

Clem has witnessed numerous changes within the Postal Service during his career. He provided dedicated and tireless service and contributed greatly to the betterment of the organization. Throughout his service, he has always been committed to those tried and true missions and mottos of the Postal Service: ''To provide postal services to bind the nation together through the personal, educational, literary and business correspondence of the people. It shall provide prompt, reliable and efficient services to patrons and render services to all communities'' and ''Neither snow nor rain nor heat nor gloom of night stays these couriers from the swift completion of their appointed rounds.''As Dakotas district manager, Clem has helped guide postal customers and postal employees through various challenges. Technological advances have put the emphasis of some postal duties on machines rather than manpower and many small community post offices have been forced to close or reduce services.

Clem has approached these challenges and changing times with the utmost level of professionalism, dedication and a sense of humor. I have appreciated the level of response from Clem and his staff over the years and I commend him for his great public service career. I wish Clem all the best in his retirement and again thank him for his dedicated service to the U.S. Postal Service. ●

TRIBUTE TO GREG HARMON

● Mr. JOHNSON. Mr. President, today I recognize a public servant from my home State of South Dakota. Greg Harmon is retiring from the National Weather Service, NWS, after 37 years of Federal service, including the last 20 years as the meteorologist in charge of the National Weather Service in Sioux Falls, SD.

During his many years at the National Weather Service, Greg always displayed a steadfast awareness of the effect the weather has on everyone. Greg began his career as a summer intern with the NWS in Eugene, OR, before becoming the fire weather program manager for the western region in Salt Lake, UT.

During his many years at the National Weather Service, Greg always displayed a steadfast awareness of the impact of weather on the citizens of South Dakota. Greg and his staff have utilized their collective expertise to educate and inform South Dakotans on the general aspects of the weather but have also provided expert guidance in times of extreme weather events, from tornadoes and hail to floods and blizzards.

As an example of Greg's work and leadership, I recall the events of May 30, 1998, when a violent tornado struck the small town of Spencer, SD. The event killed six residents and almost destroyed the entire community. Just before the tornado hit Spencer, the warning siren was silenced when electrical power to the community was cut off. Following the tornado, I initiated efforts at the Federal level to fund a weather radio network to cover much of South Dakota's population and geography. The NOAA weather radio can be the most effective warning system, but at the time of the Spencer event only a few larger communities had the system. Greg became my partner in helping to educate the general public on the importance of the weather radio and in helping to expand the communications system so that most of the State could receive the weather radio signal.

During his years of public service, Greg has witnessed many changes in the development of weather observation and climate forecasts. His skills, professional attitude and dedication to his work has been a shining example to our community and our state. It is my hope that Greg leaves the National Weather Service post knowing he greatly impacted the lives of many people by the protection of life and property during adverse weather conditions.

I wish Greg all the best in his retirement.●

PRESERVING FOREIGN CRIMINAL ASSETS FOR FORFEITURE ACT OF 2010

Mr. BROWN of Ohio. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of S. 4005, and the Senate proceed to its immediate consideration.

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

The clerk will report the bill by title.

The bill clerk read as follows:

A bill (S. 4005) to amend title 28, United States Code, to prevent the proceeds or instrumentalities of foreign crime located in the United States from being shielded from foreign forfeiture proceedings.

There being no objection, the Senate proceeded to consider the bill.

Mr. BROWN of Ohio. Mr. President, I ask unanimous consent that the bill be read the third time and passed, the motion to reconsider be laid upon the table, with no intervening action or debate, and that any statements relating to the measure be printed in the RECORD.

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

The bill (S. 4005) was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 4005

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Preserving Foreign Criminal Assets for Forfeiture Act of 2010''.

SEC. 2. PRESERVATION OF PROPERTY SUBJECT TO FORFEITURE UNDER FOREIGN LAW.

Section 2467(d)(3)(A) of title 28, United States Code, is amended to read as follows:

''(A) RESTRAINING ORDERS.—

''(i) IN GENERAL.—To preserve the availability of property subject to civil or criminal forfeiture under foreign law, the Government may apply for, and the court may issue, a restraining order at any time before or after the initiation of forfeiture proceedings by a foreign nation.

''(ii) PROCEDURES.—

''(I) IN GENERAL.—A restraining order under this subparagraph shall be issued in a manner consistent with subparagraphs (A), (C), and (E) of paragraph (1) and the procedural due process protections for a restraining order under section 983(j) of title 18.

''(II) APPLICATION.—For purposes of applying such section 983(j)—

''(aa) references in such section 983(j) to civil forfeiture or the filing of a complaint shall be deemed to refer to the applicable foreign criminal or forfeiture proceedings; and

''(bb) the reference in paragraph (1)(B)(i) of such section 983(j) to the United States shall be deemed to refer to the foreign nation.''.

ORDERS FOR WEDNESDAY, DECEMBER 15, 2010

Mr. BROWN of Ohio. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 9:30 a.m. tomorrow, Wednesday, December 15; that following the prayer and the pledge, the Journal of proceedings be approved to date; that the morning hour be deemed to have expired; that the time for the two leaders be reserved for their use later in the day; that following any leader remarks there be a period of morning business until 11 a.m., with Senators permitted to speak therein for up to 10 minutes each; that following morning business, the Senate resume consideration of the motion to concur with respect to H.R. 4853, the vehicle for the tax compromise, as provided under the previous order.