

with the Congress, the government, and, most important, with the American people. Establishing such a duty removes any doubt as to whether insider trading prohibitions apply to Congress. It is also important that the bill language makes clear that in offering this new language, it does not in any way prevent enforcement of the anti-insider trading provisions contained in current law. Again, I am confident that, under current law, Members of Congress and our staffs are prohibited from insider trading. This bill will ensure that the current prohibition is unambiguous and thereby strengthened.

The second major provision of the legislation instructs the ethics committees of both Chambers to issue clear guidance to Members and staffs on the prohibition on profiting from inside information. This guidance will clarify that existing rules in both Chambers relative to gifts and conflicts of interest also prohibit the use of nonpublic information gained in the conduct of official duties for private profit.

Finally, one other provision I will briefly mention, which is unrelated to insider trading but nonetheless an important step forward in terms of gaining the confidence of our constituents. As one of the originators of the Lobbying Disclosure Act of 1995, I am well aware of the value of transparency in government. The bill before us improves congressional transparency by requiring that personal financial disclosure filings required of Members and certain staff are made available electronically to the public. I commend Senators BEGICH and TESTER for offering a measure that improves that transparent governance.

Mr. President, it is important we pass this legislation, that we clarify and strengthen our rules and our laws and end any uncertainty about insider trading by Members of Congress. I hope we can promptly pass this legislation.

Again, I commend our chairman and ranking member and all the members of our committee for the work they have put into this bill.

I yield the floor.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Morning business is now closed.

STOP TRADING ON CONGRESSIONAL KNOWLEDGE ACT—MOTION TO PROCEED

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of the motion to proceed to S. 2038, which the clerk will report.

The legislative clerk read as follows:

Motion to proceed to the consideration of S. 2038, a bill to prohibit Members of Congress and employees of Congress from using nonpublic information derived from their official positions for personal benefit, and for other purposes.

The ACTING PRESIDENT pro tempore. Under the previous order, the time until 5:30 p.m. will be equally divided and controlled between the two leaders or their designees.

The Senator from Connecticut.

Mr. LIEBERMAN. I thank the Chair. Mr. President, I want to begin debate, and I do so with gratitude that the distinguished ranking member Senator COLLINS is here, as well as Senator BROWN of Massachusetts, whose original legislation, along with Senator GILLIBRAND, forms the basis of this proposal that comes out of our committee.

I want to go back to the beginning, to President Washington, whose Farewell Address seems to take on more relevance as time goes by, although it is obviously more than 200 years old now. Washington said in his Farewell Address that “virtue or morality is a necessary spring of popular government” and that we cannot “look with indifference” at anything that shakes that foundation or, continuing his metaphor, dries the spring.

I think we have to say in the long proud course of American history since then there have been very few times where the springs of trust in popular government have been more dry than they are in our time.

I am grateful my colleague Senator MCCAIN is not on the Senate floor now because when we get to this subject, he usually says: When you look at the public opinion polls on Congress, the numbers of people who have a favorable impression of this body are so low we are down to close relatives and paid staff. Usually, when I am with him, I add: I’m not so sure about all the paid staff.

But, in any case, we have an opportunity with this piece of legislation to take a small step forward toward rebuilding public trust in Congress and to restoring those necessary springs of popular government—the trust of the people in us. This goes back just to last fall and early winter. A book appeared by an author named Peter Schweizer who was then interviewed on “60 Minutes.” He made allegations that some Members of Congress and their staffs have used information gained on their jobs to enrich themselves with timely investments, particularly in the stock market. Those allegations, as Washington might have said, certainly dried the springs of trust that we should have with the American people, even more than they already are.

So today I am proud to rise to bring before the Senate the STOCK Act, which stands for Stop Trading on Congressional Knowledge Act of 2012. This piece of legislation puts into law language and reporting requirements that will make it clear to the American people we understand being a Member of Congress means we have a responsibility to the public, a public trust, and any Member of Congress or staff member here who violates that trust will be punished.

This bill was reported as an original bill out of the Committee on Homeland

Security and Governmental Affairs on December 14 with a bipartisan vote of 7 to 2. In advancing this bill, as I have said, Senator COLLINS and I worked closely with Senators GILLIBRAND and BROWN of Massachusetts, both of whom sponsored versions of the STOCK Act. Senator LEVIN, who has just spoken, worked closely with us on the substitute amendment that will be filed, and I thank them all for their contributions on this piece of legislation. I also thank the Senate majority leader, Senator REID, for deciding this important piece of legislation would be one of the first items we take up in Congress this year.

The specific rules making insider trading illegal are found in a large body of Securities and Exchange Commission regulatory activities pursuant to section 10(b) of the Securities Exchange Act of 1934 and court decisions interpreting those activities. Our Committee on Homeland Security and Governmental Affairs held a hearing on this topic in December, and the Securities and Exchange Commission actually filed a statement with us for the record declaring its belief that currently there is authority in the law to investigate and prosecute congressional insider trading cases. The chief enforcement officer of the SEC said:

Trading by congressional members or their staffs is not exempt from the Federal securities laws, including the insider trading prohibitions.

But other witnesses at that hearing, including Georgetown University Law Professor Donald Langevoort and Columbia Law School Professor John Coffee told us that while the SEC might be technically right, in their opinion there was ambiguity in the law and they couldn’t be sure how a court would rule if there was a challenge to the SEC’s authority to bring an insider trading case against a Member of Congress or a staff member.

That is because, as the professors explained, a person may be found to have violated insider trading laws only if he or she breaks a fiduciary duty, a duty of trust and confidence owed to somebody—typically to the shareholders of a company or to the source of the nonpublic information. They argued it is possible a judge might decide that Members of Congress do not have a fiduciary duty—in the way in which it has normally been interpreted—to anyone with respect to the nonpublic information that we receive while carrying out our duties.

Now, I must say that I find it hard to see it that way. It seems to me self-evident that a public office is a public trust and that Members of Congress have a duty to the institution of Congress, of course to the government as a whole, and ultimately, most importantly, to the American people not to use information gained during their time in Congress—and unavailable to the public—to make investments for personal benefit. But the fact is there