

do have to take into consideration that we do have a large number of Senators who would not be present for a vote.

So I am taking this opportunity to publicly admonish the Senate as a whole. Last week, I had Senators who said, well, we shouldn't vote on Tuesday morning. I had some Senators say we can't be here at Thursday noon. If it continues at this pace, we will have votes stacked in sequence on Wednesday afternoon at 3 o'clock, which would suit me fine, but I don't think it is a very good way to do business. I do intend to have votes on Fridays so we can complete our work. It is not that I necessarily want them; it is because we have to have them in order to complete our work. So I hope Senators will plan on being here on Mondays and Fridays because we do assure them that there will be no votes before 5 and no votes after 12. But I was very disappointed in what the whip check looked like for today.

SENATE LEGAL COUNSEL

Mr. LOTT. Madam President, I do want to note that for the first time in history, within the last month, the Senate leadership has selected our first woman to be the Senate legal counsel, and she is Pat Bryan. She has served at the Justice Department and at the White House in the past. She is highly capable, and we are delighted to have her joining the Senate in this very important position. But my reason for wanting to comment this morning is to talk a moment about the position and to talk about her predecessor who served as legal counsel.

Among the officers of the Senate, one of the least known is the Senate Legal Counsel. There is a reason for that.

The Legal Counsel usually works out of the limelight, away from publicity, serving the Senate with a certain anonymity that is appropriate for the very important responsibilities of the office.

The Office of the Legal Counsel is, in effect, the Senate's own law firm. Its staff handles any litigation concerning the Senate or its Members acting in their official capacity.

The Senate Legal Counsel also advises the Senate, not about legislation, but about legal matters of all sorts. The most recent and most dramatic instance, of course, was the impeachment trial of President Clinton.

Throughout that extraordinary experience, our Legal Counsel, Thomas B. Griffith, played a crucial role in shaping our procedures.

He assured the legal propriety of everything we did, keeping us, along with the Parliamentarian, true to the Senate's rules and precedents.

The meticulousness he brought to our labors was characteristic of Tom's work, as was the unflappable demeanor and unwavering courtesy he showed throughout the impeachment ordeal.

With gratitude for Tom's service to the Senate for the last four years, and yet with deep regret at the prospect of

losing him, I must report that he will be rejoining his former law firm of Wiley, Rein, and Fielding.

It is customary on occasions like this to say that we all wish him well. In this case, that is an understatement.

We wish Tom the best, as he deserves, for that is what he has given to the Senate.

One example of his dedication should suffice. Tom lives quite a distance away from Washington, considerably outside the Beltway even, in Lovettsville, Virginia.

During the weeks of the impeachment proceedings, Tom left his family there and moved closer to the Capitol, to be always available to us here, spending perhaps one day a week with Susan and the children.

I want all of them—Chelsea, Megan, Robbie, Erin, Torre, and Tanne—to know that, during those weeks when they must have sorely missed their dad, he was serving his country in a very important way.

That kind of selfless service has always been a part of Tom's life, from his days as a missionary in Zimbabwe with the Church of Jesus Christ of Latter-day Saints through his activities with the Federalist Society.

His example of integrity and commitment to the highest ideals of the law has brought honor to the Senate. He leaves us now with our affection and our enduring gratitude.

WELCOME TO THE NEW SENATE PAGES

Mr. LOTT. Madam President, I take note that we have a new group of pages that are joining us today. We look forward to having their presence and their assistance as we carry out our duties on behalf of the American people. They will be playing an important role in how the Senate conducts itself. We are delighted to have them here and we welcome them aboard.

Madam President, 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.

FLAG DAY

Mr. HATCH. Mr. President, today is Flag Day. Utahns, and indeed Americans all across our great country, revere the flag as the unique symbol of the United States and of the principles, ideals, and values for which our country stands. Who can forget the majestic image of the Marines raising Old Glory on the island of Iwo Jima during World War II or of school children pledging their allegiance to the American flag?

Over the years, the love and devotion our diverse people have for the American flag has been reflected in the actions of our legislatures. During the Civil War, for example, Congress awarded the Medal of Honor to Union soldiers who rescued the flag from falling into rebel hands.

During World War I, the National Conference of Commissioners on Uniform State Laws adopted the Uniform Flag Act that numerous state legislatures adopted to prohibit flag desecration.

Congress declared the "Star Spangled Banner" to be our national anthem.

In 1949, Congress expressed the love the American people for their flag by establishing June 14 as Flag Day. Congress also adopted "The Pledge of Allegiance to the Flag" and the manner of its recitation which millions of school children observe each school day.

In 1968, Congress adopted a federal statute to prohibit flag desecration. More recently, Congress designated John Philip Sousa's "The Stars and Stripes Forever" as the national march.

As with numerous societal interests that affect free speech, legislatures of 48 States and the federal government and the courts also have long respected society's interest in protecting the flag by balancing this interest against the individual's interest in conveying a message through the means of destruction of the flag instead of through the means of oral or written speech.

The Supreme Court continues to strike the balance in favor of society's interests in public safety, national security, protection from obscenity, libel, and the protection of children even though these interests can and do implicate the First Amendment.

In the 1989 case of *Texas v. Johnson*, however, the Supreme Court abandoned the traditional balance in favor of society's interest in protecting the flag and adopted an absolute protection for the individual's interest in communicating through the means of physically destroying the American flag.

Congress responded to the Johnson decision with a statutory attempt to restore balanced protection to the physical integrity of the American flag—the Flag Protection Act of 1989. However, in the 1990 case of *United States v. Eichman*, the Supreme Court relied on the new rule it created in Johnson to reject statutory protection of the flag.

The recent reintroduction of another flag protection statute, which has been introduced in prior Congresses, is also clearly unenforceable under the Johnson and Eichman precedents. Even Professor Lawrence Tribe, a defender of the statute struck down in Eichman, has stated that the reintroduced statute cannot be upheld under the new rule of Johnson and Eichman.

Moreover, in the 1992 case of *R.A.V. v. City of St. Paul*, the Supreme Court clearly stated that it will no longer uphold statutory protection of the flag from desecration. Accordingly, the only realistic way to restore traditional balanced protection for the flag is with a constitutional amendment.

In March of this year, Senator CLELAND and I introduced Senate Joint Resolution 14, a constitutional amendment to protect the American flag.