

House Committee on Education and Workforce and its Subcommittee on Postsecondary Education, Training and Life-Long Learning.

COMMITTEE ON EDUCATION AND THE WORKFORCE, HOUSE OF REPRESENTATIVES, RAYBURN HOUSE OFFICE BUILDING,

Washington, DC, November 8, 1999.

Hon. BILL ARCHER,

Chairman, House Ways and Means Committee, Longworth House Office Building, Washington, DC.,

Hon. TOM BLILEY,

Chairman, House Commerce Committee, Rayburn House Office Building, Washington, DC.,

Hon. DICK ARMEY,

Majority Leader, House of Representatives, the Capitol, Washington, DC.

Hon. CHARLES RANGEL,

Ranking Minority Member, House Ways and Means Committee, Longworth House Office Building, Washington, DC.

Hon. JOHN DINGELL,

Ranking Minority Member, House Commerce Committee, Ford House Office Building, Washington, DC.

DEAR CONFEREES, We are writing to clear up some misinformation regarding Section 409 of H.R. 1180, the Work Incentives Improvement Act.

At issue is a provision that was added to H.R. 1180 that would update the index on which lender returns are based in the Federal Family Education Loan Program (FFELP). Last year, as we reauthorized the Higher Education Act of 1965, the Committee became concerned that the 91-day Treasury bill, which is the index used for the last 25 years to determine the interest rate on guaranteed student loans, was becoming an out of date tool for determining lender yields. T-bill based payments made sense when the loan program was conceived. However, financial markets have evolved, and most lenders now fund their portfolios using more commonly traded instruments such as commercial paper (CP) or London interbank offered rate (LIBOR) rates.

While the Committee was willing to explore other mechanisms for determining lender yields during reauthorization, the complexity of the issue required us to form a study group, made up of a broad range of stakeholders in the program, to determine the financial instrument that would be most efficient and cost effective. Unfortunately, the study group failed to reach consensus on an appropriate alternative index. To date, the only proposal that has been put forth came from the lending community. The provision in Section 409 is based on that recommendation.

We are seriously concerned that, in an attempt to stall this important change, some are spreading a set of contrived "what if" numbers, which are not based on sound assumptions or supportable data. The facts, are as follows.

Changing the FFELP index for lender yields will not cost the federal government money. CBO scoring shows that this provision will actually save the government \$20 million in reduced payments to lenders. These are savings that will help to pay for benefits provided for disabled workers under H.R. 1180.

Changing the index won't create a windfall for lenders. The fact of the matter is that had this change been in effect over the last 10 years, lender return would have been slightly lower than the returns that were earned using the current T-Bill based index.

Changing the index will not drive smaller lenders or community banks from the program. In fact, in a letter to Senator Lott

dated November 3, 1999, the Independent Community Bankers of America (a trade association that exclusively represents this nation's community banks) raised the index change, stating that it "maximizes community banker participation in the program."

This provision will not cost students a dime. It in no way affects the interest rates paid by students.

The bottom line is that changing the index for determining lender yields for the FFEL program is sound policy, and it enjoys the bipartisan support of our Committee leadership. It will increase the efficiency and stability of the program. By basing the index on a private sector funding mechanism such as commercial paper, lenders can more easily borrow money from the private sector and fund more student loans. This change simply ensures that student loans will be readily available for all students.

In closing, we urge you to maintain Section 409 in conference. If you have any question, please do not hesitate to contact us or have your staff call George Conant (Majority) at ext. 5-6558, or Maryellen Ardouny (Minority) at ext. 6-2068.

Sincerely,

BILL GOODLING,  
Chairman, Committee  
on Education and  
the Workforce.

HOWARD P. "BUCK"  
MCKEON,  
Chairman, Sub-  
committee on Post-  
secondary Edu-  
cation, Training and  
Life-Long Learning.

BILL CLAY,  
Ranking Member,  
Committee on Edu-  
cation and the  
Workforce.

MATTHEW G. MARTINEZ,  
Ranking Member, Sub-  
committee on Post-  
secondary Edu-  
cation, Training and  
Life-Long Learning.

#### THE CHARTER BOAT INDUSTRY

#### HON. DONNA MC CHRISTENSEN

OF THE VIRGIN ISLANDS

IN THE HOUSE OF REPRESENTATIVES

Friday, November 19, 1999

Mrs. CHRISTENSEN. Mr. Speaker, I rise today to introduce a bill to help to revitalize the charter boat industry in my district by giving charter boat operators the ability to compete against their competitors in the neighboring non-U.S. jurisdictions. In the almost three years that I have served as the elected representative of the people of the U.S. Virgin Islands in the House of Representatives, there have been few other issues that have generated more passion and concern among the Virgin Islands business community than this one.

Mr. Speaker, the Passenger Vessel Safety Act, which was enacted on December 20, 1993, made several changes to the laws for passenger vessels. One such change, which required uninspected vessels weighing less than 100 gross tons to carry not more than 6 passengers, has had a significant negative impact on the charter boat industry, as well as the overall economy of my district. The limitation of only six passengers for uninspected vessels has resulted in virtually all vessels,

which are able to carry more than 6 passengers, leaving U.S. Virgin Islands waters and relocating to the nearby British Virgin Islands.

According to Virgin Islands charter boat industry officials, approximately one third of all charters on crewed yachts carry more than six passengers and less than twelve. Just about all of this type of business has relocated to other areas, primarily the British Virgin Islands which is located only 12 miles from St. Thomas. Additionally, it is estimated that each charter yacht and their clientele spend over \$500,000 annually.

Because the international standards for the inspection of passenger vessels only apply to vessels that carry more than 12 passengers, foreign registered vessels cannot comply with U.S. laws and enter U.S.V.I. waters carrying more than six passengers. Guests who might otherwise enjoy visiting the U.S.V.I. while chartering in the BVI are not able to visit us if their charter numbers more than six passengers.

Mr. Speaker, enactment of this bill is important to the Virgin Islands because of its potential to help revitalize our currently stagnant economy. As recently as 1988, U.S.V.I. marine businesses generated more than \$85 million in revenue. But that figure has dropped to less than \$15 million today, because of the decline in the industry due to the change in law.

I urge my colleagues to join me in supporting this bill which is vitally important to the economy of the U.S. Virgin Islands, due to its heavy dependence on tourism.

#### THE ISSUE IS PROTECTING THE RULE OF LAW

#### HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 18, 1999

Mr. CONYERS. Mr. Speaker, today I am pleased to submit for the RECORD a memorandum on the importance of the rule of law in our constitutional democracy written by Professor Harold Norris. Widely regarded as one of our Nation's foremost constitutional law experts, Professor Norris is an emeritus professor of constitutional law at the Detroit College of Law at Michigan State University. A man of honor and great integrity, Professor Norris shaped the careers of many of Michigan's foremost attorneys and members of the State and Federal judiciary. Throughout his long life, Professor Norris has been an indefatigable defender of the Bill of Rights and the equality under law of all persons. Among his many accomplishments was the pivotal role he played in the writing of Michigan's revised State constitution in 1963. Professor Norris has provided insight on constitutional issues throughout my congressional career, most recently during the impeachment proceedings against President Clinton. Professor Norris' commitment to the spirit of our Constitution and the Bill of Rights and his zealous defense of our civil liberties should be heeded by all Americans.

[From the Bradenton Herald, Oct. 19, 1998]

THE ISSUE IS PROTECTING THE RULE OF LAW

(By Professor Harold Norris)

On two separate occasions, the American people have decided that William Jefferson

Clinton is fit to be President of the United States by electing him to that office.

To proceed to nullify a presidential election on the basis of authoritarian, privacy-invasive questions about sex, questions the government does not have the legal power to ask, is producing irreparable harm to our nation and to its Constitution. There is no crime of perjury arising out of questions the government doesn't have and should not have the legal authority to ask. We must stop this terrible carnal carnival, this tragic, malevolent, partisan, anguishing national experience.

Electing a president under our Constitution is the most important expression of the political sovereignty of the whole of the American people. To diminish, countermand or nullify the legitimacy of a presidential election for behavior rooted in personal private conduct diminishes, debases and abuses our Constitution, our nation, the office of the president, the rule of law itself. The purpose of the Constitution to unify the nation in opposing to autocracy and to abuse of constitutional authority is being dangerously undermined and diminished by the presently-invoked processes of political and unconstitutional impeachment.

Perjury and subornation of perjury, rooted and based exclusively upon an illegal invasion of personal privacy like sex, is not "treason, bribery, or high crimes and misdemeanors." Elizabeth Holtzman, former U.S. representative and former New York City prosecutor, concluded in an Op-Ed in the New York Times that perjury in the Clinton matter is a "manufactured" crime. She wrote (Aug. 10):

"As one of the authors of the original Independent Counsel Act, I never dreamed that a special prosecutor would be using his enormous powers to investigate accusations about a president's private (and legal) sexual conduct. Starr is manufacturing the circumstances in which criminal conduct may occur. . . ."

Moreover the investigation and prosecution of Mr. Starr using methods short of due process has undermined the credibility of the fact-finding process itself. The President of the United States should be as protected by the Bill of Rights as any person, or else faith and confidence in our law will be seriously damaged.

Upon assuming office, President Clinton took an oath, as provided by the Constitution, that he would faithfully execute the Office of President and that he would preserve, protect, and defend the Constitution.

Since the president is elected by all the people to a four-year term of office, the framers made it very difficult for him to be removed from office. According to Article II, Section 4 of the Constitution, the president may only be removed from office upon impeachment and conviction for "treason, bribery, or other high crimes and misdemeanors." The term "high crimes and misdemeanors" had a very clear meaning for the framers. It meant a serious abuse of the president's official power or a serious breach of the president's discharge of the official duties of office. Those duties are set forth in Article II, Sections 2 and 3 of the Constitution. The framers were acutely aware that abuse of the impeachment process by Congress would upset the balance of power between the three branches of American government if any president could be toppled at will by the Congress.

The Supreme Court determined in the Paula Jones case that a distinction must be drawn between incidents involving the president in his capacity as a private citizen and those occurring in the course of the exercise of his constitutional duties. Everything connected with Monica Lewinsky and Paula

Jones involved the president as a private individual and had nothing whatsoever to do with the presidential office. As President Theodore Roosevelt cogently observed, "in the United States, no person can be above the law but no person can be below the law, either." The president must therefore be judged according to constitutional principles and the rule of law, nothing else.

There has been no suggestion that anything the independent counsel is investigating involves the president's constitutional duties. Unless the independent counsel has substantial evidence that President Clinton has violated his constitutional duties, Mr. Starr has no basis whatsoever for making a report to Congress suggesting that impeachment be contemplated. Any suggestion that the president could be impeached for conduct occurring as a private individual or because some members of Congress might dislike his character or image and consider him "unfit for office" is clearly contrary to the intent of the framers and the explicit language of the Constitution.

We must resist as vigorously and effectively as possible any effort by the independent counsel to rewrite the Constitution to serve a palpable political end. The ultimate sacrifice made by millions of men and women to preserve the integrity of the Constitution for more than 200 years requires nothing less.

There has been a tabloidization of the whole range of the American press and television. In a full self-mesmerized frenzy on the possibilities of titillation, the constitutional requirements of due process in grand juries, investigations and impeachments have been ignored, and fairness has been subordinated to a persistent partisan political purpose. Trial by and for the sex-focused press has displaced decency, dignity, civility and respect. Unless the Constitution and rule of law genuinely prevail, the country will inexorably move to continual constitutional crises and indeed, disunity and disintegration. Only a citizenry aware of the Constitution's priorities can prevent the unraveling of the nation and preserve its sovereignty. Our Constitution will not survive the criminalization of the privacy of a president.

In a democratic non-totalitarian country that protects the liberty, privacy, and dignity of a person, there can be no crime of perjury for failing or refusing to answer question about sex, questions the government has no right to ask. As a 34-year veterans member of Congress, John Conyers of Michigan, devoted constitutionalist and Democratic leader of the House Judiciary Committee, put the question before Congress and the country: "The issue is not Mr. Clinton; the issue is to preserve, protect, and defend the rule of law and the integrity of the Constitution. Without law, there is tyranny and anarchy."

#### TRIBUTE TO CALVIN JERRY POWELL

#### HON. ALLEN BOYD

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Friday, November 19, 1999*

Mr. BOYD. Mr. Speaker, I rise today to pay tribute to the life and work of Corporal Calvin Jerry Powell. Corporal Powell, a member of the Jasper Police Department in Northern Florida, was killed in the line of duty in late September of this year. He lost his life after being hit almost head on during a high-speed car chase. Needless to say, his death has grieved the entire Jasper community.

Corporal Powell, 27, was a two year veteran of the department, and had been promoted to Corporal one month prior to his death. Jasper Police Chief Frank Osborn shared with me that Powell put himself through school to become an officer, and while he was only on the force for two years, he carried himself as though he was a ten year veteran. Corporal Powell loved his job and was very well liked by the entire force, he will be sorely missed.

There are many lessons we can take from the tragic and senseless loss of Corporal Powell. Police officers put their lives at risk every day in order to ensure our safety, security and peace of mind. When a death such as this occurs, particularly in a closely knit community like Jasper, it shakes us to the core. Each day, we need to reflect on the sacrifices made by our officers and truly appreciate just how vital the role of these brave men and women are to our own lives.

Mr. Speaker, we mourn the loss of Corporal Powell along with his family and the Jasper Community. Our prayers are with his wife and two children during this difficult time. He will be missed beyond any expression of words.

#### TICKET TO WORK AND WORK INCENTIVES IMPROVEMENT ACT OF 1999

SPEECH OF

#### HON. TOM BLILEY

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, November 18, 1999*

Mr. BLILEY. Mr. Speaker, earlier today, the House passed a consolidated appropriations act funding a number of agencies for fiscal year 2000.

Among the legislative items attached to that measure was a provision imposing a moratorium on the Administration's organ allocation regulations. Under the legislation we passed earlier today, that moratorium extends for 42 days.

That moratorium is not a sufficient amount of time for Congress to complete its work in legislating changes in the National Organ Transplant Act.

Accordingly, the legislation we currently have under consideration, the Ticket to Work and Work Incentives Improvement Act of 1999, goes a step further. This legislation extends the moratorium an additional 90 days. I fully expect that President Clinton will sign the consolidated appropriations measure into law in the near future. When he does so, under the terms of that law, the first moratorium of 42 days will begin.

I further anticipate that the President will sign the Work Incentives legislation after he signs the appropriations bill. When he does so, it is my firm belief that H.R. 1180's 90-day moratorium will then begin. As the legislative language of the bill states: "The final rule entitled 'Organ Procurement and Transplantation Network', promulgated by the Secretary of Health and Human Services on April 2, 1998 (63 Fed. Reg. 16295 et seq.) (relating to part 121 of title 42, Code of Federal Regulations), together with the amendments to such rules promulgated on October 20, 1999 (64 Fed. Reg. 56649 et seq.) shall not become effective before the expiration of the 90-day period beginning on the date of the enactment of this