

the four telephone companies had requested subpoenas; the issue was also raised as to a closed session.

There were objections raised by some members of the committee about calling in the telephone companies. Suggestions were made by other members of the committee about calling in other members of the administration.

Since we were in the middle of the debate on immigration, we held a very brief meeting in cramped circumstances in the President's Room off the Senate floor. It was decided to defer the hearing with the telephone companies by 1 week to give the committee an opportunity on June 6, the same date we had previously scheduled a hearing, to consider these issues and decide them at greater length.

An interesting suggestion was made by one of the members of the committee—that in the past, when that member of the Judiciary Committee was on the Intelligence Committee, he had called for a secret session of the full Senate to discuss matters which had been disclosed to him in the Intelligence Committee which he was barred from saying publicly. That is an avenue which I am currently pursuing.

The stonewalling of the Congress—and particularly the Judiciary Committee and precluding the Judiciary Committee from discharging our constitutional duty of oversight—is particularly problematic in light of a pattern of expanding executive authority.

A ranking member of the administration reportedly told a ranking member of Congress that “we don't have to tell you anything.” We have scheduled a hearing on signing statements where the President has asserted his authority to pick and choose what he likes and what he doesn't like in legislation which was passed by the Congress and signed by the President.

The Constitution gives the President the authority to veto but not to cherry pick.

We have the case of Judith Miller, the newspaper reporter put in jail for 85 days during an investigation of a national security issue as to whether the identity of the CIA agent had been disclosed, but there was also an investigation as to whether there had been perjury or obstruction of justice during the national security investigation. Perjury and obstruction of justice are serious charges, but they do not rise to the level of a national security issue, which would be the threshold for such action as jailing a reporter for 85 days.

We now have the situation where the Attorney General, on a Sunday talk show last week, raised the possibility of prosecuting newspapers under a World War I espionage statute.

We have the situation where the congressional quarters of Congressman JEFFERSON were subject to a search and seizure warrant without prior notification of the Speaker of the House of Representatives or someone in the House, with very serious questions raised there.

I am advised by one of the members of those informed on the administration's surveillance program that, reportedly, the FBI now seeks to question Members of Congress about disclosures on the administration's surveillance program.

These are all circumstances and situations which pose very substantial peril to the separation of powers, and Congress has not asserted its Article I powers and ought to do so.

I have talked to FBI Director Mueller and to the Deputy Attorney General about the search and seizure on Congressman JEFFERSON. This is a matter which ought to be inquired into—perhaps quietly—to see if a protocol can be arrived at about what would be done if this situation were to reoccur in the future.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. SPECTER. I thank the Chair.

(The remarks of Mr. SPECTER pertaining to the introduction of S. 852 are printed in today's RECORD under “Statements on Introduced Bills and Joint Resolutions.”)

Mr. BYRD. Mr. President, for how long am I to be recognized?

The PRESIDING OFFICER. For as much time as the Senator consumes.

Mr. BYRD. I thank the Chair.

Mr. President, I yield to my distinguished friend from Montana so that he may speak for not to exceed 10 minutes, and that I then be recognized in my own right.

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

The Senator from Montana is recognized for 10 minutes.

Mr. BAUCUS. Mr. President, thank you, and I thank my good friend from West Virginia. I know what he is going to speak on. The person he is going to speak about was a great person, a person I very much admired, as I admire the Senator from West Virginia—a wonderful relationship, wonderful, wonderful. It is a model for so many of us in the Senate and the country. I thank my very good friend.

Mr. BYRD. Mr. President, I thank my dear friend, Senator BAUCUS, for his kind remarks.

SENATOR LLOYD BENTSEN

Mr. BAUCUS. Mr. President, it is with great sadness that I join my colleagues in mourning the passing of a great man, an extraordinary statesman, and a good friend: Senator Lloyd Bentsen.

Lloyd Bentsen was the noblest of Americans. Courteously, thoughtfully, and soft-spokenly, Senator Bentsen embodied the finest traditions of America.

Lloyd Bentsen and I shared a perspective. It was based on the states that we came from. I used to tease Senator Bentsen that Montana is what Texas would be like, if all the things that Texans say about Texas were true.

We shared an outlook born in the wide open spaces of our great Land. We

came from states that are larger than counties in Europe. You can go great distances in Montana or Texas without seeing another soul. And with that comes a view that values our fellow man.

We also shared a view of this Senate. We could not have been more compatible. We shared a goal, always to accomplish something good on behalf of the American people.

We also shared a hallway on the 7th floor of the Hart Senate office building. I had good fortune to get an office next door to Senator Bentsen's. Our two teams were very closely woven together.

Very often I would wonder where in the world my staff was. They would be down the hall talking to Bentsen's staff because they were so compatible and had such good ideas.

My staff would often go to his for sage advice, as I would go to him. We would often walk over together for votes.

Senator Bentsen was a role model. He was smart, tough, and disciplined. He was always focused. He always maintained his temper. And he always kept his integrity. He was a Senators' Senator.

Lloyd Bentsen was a singular person. He was reserved, even-tempered, and fair. He reserved judgment, learned the facts, and listened to all points of view. And then he would take a strong position. And more often than not, that position would prevail.

Lloyd Bentsen had the strongest commitment to duty. Even after 14 hours of floor work, he would walk into a room for all-night budget negotiations. He would not complain. He would say: “This is what I signed up for.”

Lloyd Bentsen contributed greatly to this Country. He served bravely in the Air Force. He served 6 years in the House of Representatives. He served 22 years in this Senate. He served 6 years as chairman of the Finance Committee. And he served 2 years as Secretary of the Treasury.

Lloyd Bentsen stood for responsibility, probity, and civility. He was a champion of sound tax policy. He fought for and achieved some of the most significant deficit reduction in our Nation's history. He played key roles in the 1990 budget summit and President Clinton's 1993 deficit reduction legislation.

And Senator Bentsen was a leader in international trade. We worked closely together for more than a decade, early on, to develop a Democratic position that supported free trade. We did so with an aggressive policy that broke down international trade barriers to American products. We worked closely on a series of initiatives, for at least a decade.

Chairman Bentsen skillfully and successfully worked to win passage of the 1988 Trade and Competitiveness Act. He guided the United States-Canada Free Trade Agreement through the Senate.

And in Texas, he is known as the father of the North American Free Trade Agreement.

Senator Bentsen ran against the first President Bush twice. Bentsen ran against and beat Bush in the election for Senator from Texas, in 1970. And later, Senator Bentsen ran with Governor Dukakis on the 1988 Presidential ticket.

But after that election, Chairman Bentsen was still for giving President Bush authority to negotiate trade agreements. He simply thought that it was the right thing for the country.

Senator Bentsen embodied the finest characteristics of public service. Some might say that he embodied a different era of the United States Senate. If that is so, then we are the poorer for having lost it. We are certainly the poorer for having lost him.

Our hearts go out to B.A., and the entire Bentsen family, on their great loss. Lloyd Bentsen was always very sweet and deferential to B.A. He often said the B.A. stood for "best asset." Lloyd and B.A. Bentsen were married for 63 years.

Very often I would see the two of them together. It reminds me of the relationship of Senator and Mrs. Byrd.

They were very close; teasing each other. It was a wonderful relationship to behold. I have many memories of Lloyd and B.A. being together, whether flying on a plane to South America or here in the Senate, wherever.

My heart goes out to you B.A. and to your family.

Henry Wadsworth Longfellow wrote:

Were a star quenched on high,
For ages would its light,
Still travelling downward from the sky,
Shine on our mortal sight.

So when a great man dies,
For years beyond our ken,
The light he leaves behind him lies
Upon the paths of men.

Senator Lloyd Bentsen was a great man. And for years beyond our ken, the light that Lloyd Bentsen leaves behind will lie upon the paths of men, upon the paths of the United States, and upon the paths of this Senate.

I very much thank my friend from West Virginia.

Mr. BYRD. Mr. President, I thank the distinguished Senator from Montana, Mr. BAUCUS, for that lovely thought to which he refers by the great poet Longfellow, in his alluding to our former fellow colleague, Lloyd Bentsen.

I thank the Senator from Montana for speaking as he has about our late former colleague, Lloyd Bentsen.

Lloyd and I served in the House together, too. We had a great admiration for him there. I said, "There is a young man going places"—and he went. He went places.

I join with my colleague, Senator BAUCUS, today in his message as words of reverence for Lloyd Bentsen, and for B.A., Lloyd's lovely wife. I suppose she is in Texas today.

Mr. BAUCUS. She is.

Mr. BYRD. I want to associate myself, again, may I say, with my colleague in every word he has chosen to speak about Lloyd Bentsen.

Mr. President, for how much time am I recognized?

The PRESIDING OFFICER. For as much time as the Senator wishes to consume.

Mr. BYRD. Mr. President, I thank the Chair.

REMEMBERING OUR FALLEN HEROES

Mr. BYRD. Mr. President, I speak today in memory of our fallen heroes. Next Monday, the last Monday in May, the Nation honors the men and women who have given their lives in battle.

In the aftermath of the Civil War, the practice of decorating the graves of those who died in battle was already an established custom in many places, especially in the South, but it was a tribute to the healing of the Nation that both sides were able to put aside their past differences to mourn the fallen together after that terrible conflict.

Although many communities lay claim to being the birthplace of Memorial Day, since World War I, when the holiday changed from honoring just those who died fighting in the Civil War to honoring those who were lost in battle in any war—those Americans—Memorial Day belongs to us all.

Mr. President, death knows no divisions or political views. Death knows no distinctions between uniforms or battlegrounds. The Nation knew that all too well after the Civil War. Death unites the fallen—death unites the fallen—in God's care. And death heaps grief and loss in equal measure on all those left to mourn.

It is a lesson that some strident few today need to be reminded of, as they use military burials as a place of protest. No matter what views one may hold about the current conflict in Iraq and Afghanistan, or indeed of any conflicts anywhere, there is no place for intrusions during these solemn rites, no cause worth offering further pain to the families of the fallen.

The men and women in our military who don the uniform of the United States are not, as someone has so inelegantly put it, "the deciders." They must, instead, put aside their personal views and focus on working seamlessly with the other members of their unit, so that the unit survives.

Every death is accompanied by stories of heroism, from the one who sacrificed his all to keep his fellow soldiers safe, to the heroes who brought the fallen home. No protests can change, and none should mar, those acts of bravery or those honored dead.

Memorial Day is a day to put aside our own schedules and to spend some time remembering those who have risked all and lost all in service to the Nation. It is a day to recall and revere their bravery, their duty, their strength, and their humanity. It is a

day of tribute to them, and to their families, to whom the Nation owes so much.

The poet Joyce Kilmer, himself a sergeant with the "Fighting 69th" Division, who lost his own life in 1918 during World War I, wrote a poem called "Memorial Day."

The bugle echoes shrill and sweet,
But not of war it sings to-day.
The road is rhythmic with the feet
Of men-at-arms who come to pray.
The roses blossom white and red
On tombs where weary soldiers lie;
Flags wave above the honored dead
And martial music cleaves the sky.

Above their wreath-strewn graves we kneel,
They kept the faith and fought the fight.
Through flying lead and crimson steel
They plunged for Freedom and the Right.

May we, their grateful children, learn
Their strength, who lie beneath this sod,
Who went through fire and death to earn
At last the accolade of [Almighty] God.

In shining rank on rank arrayed
They march, the legions of the Lord;
He is their Captain unafraid,
The Prince of Peace . . . Who brought a sword.

Mr. President, all too often these days, Memorial Day is just another 3-day weekend, an opportunity to work on the yard a little bit, an opportunity to go shopping, or to host a backyard barbecue. Fewer and fewer Americans honor the men and women in uniform and their fallen compatriots. Fewer, still, visit military cemeteries or actually decorate graves in the old-fashioned way.

But for those who went to Arlington National Cemetery on Thursday, May 25, I say you may have witnessed the beautiful scene known as "Flags-In." Just prior to each Memorial Day weekend, every available soldier from the 3rd U.S. Infantry Division, the Old Guard, honors their fallen brethren by placing a small American flag before each of the more than 220,000 grave-stones and 7,300 niches at the cemetery's columbarium. An additional 13,500 flags are set in place at the Soldier's and Airman's Home National Cemetery, also in Washington, DC.

Flags are placed at the graves of each of the four individuals at the Tomb of the Unknowns by the tomb sentinels. Then, in order to ensure that each flag remains in place and standing proudly, the Old Guard patrols the cemetery throughout the weekend, watching over their fallen comrades. It is a stirring sight to see that, truly, none of these great sacrifices are forgotten, and to witness how seriously these young soldiers take their duty.

There will be speeches on Memorial Day—formerly referred to as Decoration Day. And I have made many of those speeches in my long years on Memorial Day. And on this coming Memorial Day, there will again be speeches, and wreaths will be laid. A moment of silence will be observed. For these few moments, our Nation both mourns and celebrates. Privately, we mourn the loss of so many young men and women, fathers and mothers, sons and daughters, friends and relatives.