IN RECOGNITION OF THE LIFE OF CAPTAIN TORRE REMOINE MALLARD

HON. MIKE ROGERS

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 1, 2008

Mr. ROGERS of Alabama. Madam Speaker, I would like to request the House's attention today to recognize the life of a heroic American citizen, Capt. Torre Mallard.

Captain Mallard, a native of Anniston, Alabama, died in Iraq on March 10, 2008. He is survived by his wife, Bonita and two children, Torre, Jr. and Joshua.

Like all those who have paid the ultimate sacrifice in this conflict, words cannot express the sense of sadness we have for his family, and the gratitude our country feels for his service. Captain Mallard died serving the United States and the entire cause of liberty, on a mission to bring stability to a troubled region and liberty to a formerly oppressed people. He was a true patriot indeed.

We will forever hold him closely in our hearts, and remember his sacrifice and that of his family as a remembrance of his bravery and willingness to serve. Thank you, Madam Speaker, for the House's remembrance on this mournful day.

PERSONAL EXPLANATION

HON. EARL POMEROY

OF NORTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 1, 2008

Mr. POMEROY. Madam Speaker, on March 31, 2008, due to flight delays, I missed rollcall votes No. 147, 148, and 149. Had I been present, I would have voted in the following manner:

Rollcall No. 147, ''yea;'' rollcall No. 148, ''yea;'' rollcall No. 149, ''yea.''

ESTABLISHING AN OFFICE OF CONGRESSIONAL ETHICS—Continued

SPEECH OF

HON. MICHAEL E. CAPUANO

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 11, 2008

Mr. CAPUANO. Mr. Speaker, I would like to thank many of the people who participated in the work of the Task Force, either by coming to speak with us and share their views or by contributing on a staff level.

A number of individuals attended meetings at the Task Force's request to share their past experiences and offer their opinions on the idea of an independent ethics office. We very much appreciate the time they gave us. They are Senator BEN CARDIN, former Representative Louis Stokes, former Representative Robert Livingston, Thomas Mann of the Brookings Institution, Norman Ornstein of the American Enterprise Institute, Donald Wolfensberger of the Woodrow Wilson International Center for Scholars, former Federal Election Commission Chairman Bradley Smith, Kentucky Legislative Ethics Commission Executive Director Judge Anthony Wilhoit, President of the Ethics Resource Center Dr. Patricia Harned, Sarah Dufendach of Common Cause, Gary Kalman of U.S. PIRG, Fred Wertheimer of Democracy 21, Meredith McGehee of Campaign Legal Center, Melanie Sloan of Citizens for Responsibility and Ethics in Washington, Thomas Fitton of Judicial Watch, Lloyd Leonard of the League of Women Voters, Senate Ethics Committee Staff Director Robert Walker, and Senior Counsel to the House Committee on Standards of Official Conduct Ken Kellner.

I would like to extend my particular thanks to Tom Mann, Norm Ornstein, Sarah Dufendach, and Gary Kalman, all of whom were very committed to seeing a responsible and practical proposal from the Task Force and therefore spent many hours in consultation toward achievement of that goal.

The staff who assisted members of the Task Force also deserve our thanks and recognition: Bernard Raimo, Counsel to the Speaker; Paul Taylor, Chief Republican Counsel to the House Judiciary Subcommittee on the Constitution, Civil Rights, and Civil Liberties; Ed Cassidy, Senior Advisor & Floor Assistant to the Republican Leader; Robert F. Weinhagen, Jr., Senior Counsel in the Office of Legislative Counsel; Jean Louise Beard, Chief of Staff, and Kate Roetzer, Legislative Assistant to Rep. PRICE; Allison Havourd and Rob Guido, Legislative Assistants to Rep. CAMP; Christopher Hickling, Legislative Director to Rep. MEEHAN; Ben Taylor, Legislative Assistant to Rep. HOBSON; Carla Murrell-Hargrove, Staff Assistant, and Rashage Green, Legislative Assistant to Rep. SCOTT; Jeff Kahrs, Chief of Staff to Rep. TIAHRT; and Emily Lawrence, Legislative Director to Rep. MCCOLLUM.

Mr. Speaker, much of the debate on the Office of Congressional Ethics and the process followed by the Task Force in formulating these recommendations has centered on the issue of bipartisanship. Although my Republican colleagues declined to endorse the final proposal outlined in our report dated December 19, 2007, the process up to that point had, in fact, been incredibly bipartisan. This is to the credit of all of my colleagues on the Task Force. We had lively, open, and civil discussions in a series of meetings held over the course of a year, and we all value the cordial and professional way in which we were able to work together.

A number of draft proposals were circulated to all members of the Task Force throughout the process, starting with an initial proposal that was floated in June. As we worked to craft a specific set of recommendations, all Members had the opportunity to offer suggestions and feedback—and all did. As we worked from a general outline of an independent office into a more specific legislative draft, we incorporated most of the ideas put forth by Task Force members.

I would like to point out that the final proposal—as introduced in December and as amended for consideration on the House floor—contains a litany of concepts put forth by our Republican colleagues. They include:

Term limits for OCE board members;

Joint appointment of OCE board members;

Requirement that reviews be initiated with bipartisan agreement;

Only prospective consideration by the OCE—no retroactive reviews of allegations pertaining to acts that occurred before the date of adoption;

Code of conduct for OCE board members and staff that includes avoidance of conflicts of interest;

Financial disclosure form for OCE board members;

Wording on OCE ability to ''solicit such testimony and receive such relevant evidence as may be necessary to carry out its duties'';

60-day blackout on referrals from OCE to Ethics Committee before an election was made mandatory, as opposed to being at the Committee's discretion;

Provision requiring leaks to be investigated; and

Provision on ex parte communications.

One other issue to which I would like to respond is the internal memo from staff of the Committee on Standards of Official Conduct that was publicized via a Dear Colleague letter on March 11th and submitted for the RECORD that same day. This memo came in the form of an email exchange between Ken Kellner, Senior Counsel to the Committee, and Bill O'Reilly, Chief Counsel and Staff Director.

I would like to be absolutely clear that while the written memo was never shared with my office prior to their release in the Dear Colleague letter, its contents and the concerns of the Ethics Committee were shared in November 2007—prior to the introduction of H. Res. 895 on December 19, 2007. While some of the concerns raised by the Committee essentially rose from a basic objection to the creation of an independent ethics office within the House and could therefore not be addressed without compromising the fundamental concept, others were valid and reasonable issues that we took into consideration and modified based on Committee staff's suggestion.

I call Members' attention to five key changes that were made to the Task Force proposal in direct response:

We built in a process for the Ethics Committee to unilaterally take a case from the OCE at any time if the Committee feels it necessary or appropriate.

We removed a provision that would direct the OCE to provide a copy of its findings to the Member, officer, or employee who is the subject of a review. We agreed that it was not ideal to provide what could essentially be a ''roadmap'' for an investigation to the subject of a review. Therefore, the subject of the review would only see the OCE findings when they become available to the public—only after the Ethics Committee has a chance to deal with the matter.

We altered the content of the findings so that cooperative witnesses could not be named publicly—precisely because we agreed that the OCE would not want to punish legitimate whistleblowers by publicly disclosing their names. The change specified that only uncooperative witnesses may be named in the findings.

With respect to Committee concerns about publishing the board's findings even if the Committee has decided to handle a matter nonpublicly, we made sure to clarify that Ethics Committee rules would allow the Committee to dismiss a matter while also issuing a private letter to the subject or respondent. If the Committee felt the need to handle a smaller infraction privately, they could do so in this manner and no publication of the action is required.

We expanded the ex parte communications prohibition to include ''any interested party'' as was suggested.