

can read the opinion by the dissenting judges and look into whether an appearance of impropriety should be an impeachable offense.

There is no suggestion it was a bribe. It is not alleged it was a bribe. And so what you have then is something that is classified as an appearance of impropriety, and an appearance of impropriety does all of the things that the question suggests. That is why you do not want appearances of impropriety, because it makes people uncertain as to whether the judge is being fair and unbiased. And he admitted to that. It was a mistake. But it was not during the trial. The trial was long over. This was years after the trial. But it was still a mistake. The case was still pending. And he should have realized that.

And, yes, we do refer to it as a wedding gift. I am not so sure why we are having the dispute because it was Amato who said—he raised the fact that he needed money to pay for his son's wedding, and the result of that is that Amato and Creely gave him \$2,000 cash. And it is true that they are friends with Timothy. It is true, you know—I am not surprised to hear a suggestion that Creely—that there might be an overstatement of the relationship. I suggest that you read the record. But they were very close to Timothy. But it does not excuse anything. That is why he accepted the punishment.

But words mean things in impeachments. You know, Mr. SCHIFF points out, why did we have to actually say “kickback”? Why are you making us say “kickback”? Just look at how these words hold together. Is this not what a kickback is? Well, yeah. And it can also be conspiracy, it could be mail fraud, it could be wire fraud, it could be a number of other things when you talk about corruption.

The reason we want you to say “kickback” or “bribe” is because it is a specific allegation. And one of those is mentioned actually in the Constitution itself.

By the way, the House managers knew that the issue before the Supreme Court was whether you are going to allege a kickback. So they knew that courts, in fact, turn down honest services for the failure to allege kickbacks, and they still did not mention it. Why? Because they wanted to use corruption.

So the point is, in answer to this question, that if it is not a kickback and it is not a bribe, it is what the Court said it was in the Fifth Circuit—an appearance of impropriety. And that is not good. And Mr. SCHIFF and I will agree on this. No attorney wants a judge to do what was done in this case, and that is why he was disciplined, and he was disciplined harshly. That is the most severe discipline this court has handed down.

Mr. SCHIFF might, in fact, say: What is that? You do not get to be a judge? That is a lot because you are reprimanded by your colleagues. You are

held up for ridicule. And I got to tell you, it is not something most people would want for themselves. It was an appearance of impropriety, and he was severely disciplined for it.

The PRESIDENT pro tempore. Are there any more questions?

The Chair recognizes the majority leader.

#### CLOSED SESSION

Mr. REID. Mr. President, I move that pursuant to impeachment rule 10, the Senate now close its doors to commence deliberations on the motions and impeachment articles and ask unanimous consent that floor privileges during the closed session be granted to the individuals listed on the document I now send to the desk.

The PRESIDENT pro tempore. Without objection, it is so ordered.

The list is as follows:

#### IMPEACHMENT CLOSED SESSION FLOOR PRIVILEGES

Parliamentarians: Alan Frumin, Elizabeth MacDonough, Peter Robinson, Leigh Hildebrand.

Legislative Clerks: Kathie Alvarez, John Merlino, MaryAnne Clarkson.

Journal Clerks: Scott Sanborn, William Walsh, Ken Dean.

Official Reporters: Valentin Mihalache, Pam Garland, Joel Bretnner, Mark Stuart, Rebecca Eyster, Patrick Renzi, Julie Bryan and Paul Nelson.

Executive Clerk's Office: Jennifer Gorham. Majority Leader: Gavin Parke, Mike Castellano, Serena Hoy, Gary Myrick.

Republican Leader's Office: John Abegg. Democratic Secretary's Office: Tim Mitchell, Tricia Engle, Meredith Mellody.

Republican Secretary's Office: Laura Dove, Jody Hernandez.

The PRESIDENT pro tempore. The Senate will now close its doors and only Members and staff granted floor privileges shall remain.

The Sergeant at Arms will ensure the Chamber, the galleries, and the adjoining corridors are cleared of unauthorized persons.

(At 5:45 p.m., the doors of the Chamber were closed.)

At 7:56 p.m., the doors of the Chamber were opened, and the open session of the Senate was resumed.

#### LEGISLATIVE SESSION

Mr. REID. Mr. President, I ask unanimous consent that the Senate now move to legislative session.

The PRESIDING OFFICER (Mr. UDALL of Colorado). Without objection, it is so ordered.

Mr. REID. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

#### MORNING BUSINESS

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed

to a period of morning business, with Senators allowed to speak for up to 10 minutes each.

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

#### TRIBUTE TO WALT RULFFES

Mr. REID. Mr. President, I rise today to recognize the lasting achievements of the Walt Rulffes. His recent retirement from the post of Superintendent of Clark County School District means that southern Nevada is losing one of its most versatile leaders. Walt's impressive ability to lead, while often having to make tough decisions, has garnered the respect of all Nevadans. His guidance of one of the Nation's fast-growing school districts through good times and bad, will never be forgotten.

Born in Long Island, NY, Walt was raised on a ranch in Washington State. He grew up with a love for literature and learning. Although childhood dreams revolved around becoming a cowboy, he went on to obtain his M.B.A. from Gonzaga. Walt developed a background in Finance, which laid the foundation for later success. He also developed the ability to act decisively in a moment of need. Serving first as deputy superintendent of finance, then as interim superintendent, Walt eventually became the superintendent of the Clark County School District.

The Clark County School District is one of the country's largest local education agencies, serving over 300,000 students from a variety of backgrounds. Its superintendent, therefore, must be able to proficiently manage immense day-to-day activities as well as oversee financial affairs. Mr. Rulffes not only met these demands, but in fact exceeded all expectations. His success is mainly due to this fact: Walt has never forgotten the most important part of his job—the students. In one occasion, unsatisfied with the inconsistency of math teaching practices and tests, he implemented district-wide math textbooks and uniform testing to equip students with necessary mathematics skills for college. Scores improved and students are now much better prepared for college and careers. His focus on the development of career and technical schools likewise improved students' possibilities for education. Walt further implemented English language learning, ELL, programs and was a champion of the “Empowerment Schools,” a program that grants school principals greater autonomy.

Serving as the head of Clark County School District, Walt was also forced to master the art of adaption. From year to year, the issues facing the school district were never quite the same. CCSD went from building over 100 new schools to accommodate new

residents, to dealing with over \$250 million in budget cuts when the economic downturn hit. Through the highs and lows, Walt Ruffes has worked to give the school district, its teachers, and students the consistency that must accompany a quality education.

The recognition of his work has gone far beyond the borders of the Silver State. Just this year, he was one of the four finalists for National Superintendent of the Year, awarded by American Association of School Administrators. In making their selection, the judges cited student achievement, his empowerment program, fiscal responsibility, and staff development in the nation's fifth largest school district. I congratulate him on this honor and appreciate all the improvements he has brought to the district.

I join with my fellow Nevadans in honoring Walt for his great work as Superintendent of Clark County Schools. "My whole obsession in Nevada has been to increase the number and quality of our graduates," he once noted. For that, we will always be grateful.

#### DREAM ACT

Mr. CORNYN. Mr. President, I rise today to discuss the upcoming cloture vote on the motion to proceed to the DREAM Act. I have great sympathy for students brought to the United States at a very young age who have no moral culpability for being in this country in violation of our laws. I have listened to many stories about how our broken immigration system has failed these students, and I have discussed this issue with many Hispanic leaders in Texas and across the Nation.

Last week, we learned that the unemployment rate went back up to 9.8 percent in November—and more than 15 million Americans cannot find a job. In the Hispanic community, things are even worse. The unemployment rate is up to an astonishing 13.2 percent the highest rate in 27 years. And it has been above double digits every month since the stimulus bill became law in February 2009.

That's why I agree with my Republican colleagues that the only items on our agenda during this lameduck session should be time-sensitive issues focused on the economy. Those time-sensitive issues include passing a continuing resolution to keep the government running, as well as preventing the largest tax hike in U.S. history. Everything else that can wait should wait until the new Congress convenes in January.

Nevertheless, I do have sympathy with students who would benefit from the DREAM Act. And that is why I voted for a version of this legislation in the Judiciary Committee in 2003. But as I said then and continue to say today: it is important to get the details right with sensitive legislation like this.

Unfortunately, the version of the DREAM Act before us has several problems we have identified previously over the last several years. Under this version of the DREAM Act, a 30-year-old illegal immigrant with only 2 years of post-high school education would be eligible for a green card—regardless of whether he or she ever earned a degree.

Under this version of the DREAM Act, a thirty year old illegal immigrant who has been convicted of two misdemeanors would be eligible for a green card—and let's remind ourselves that many misdemeanors are not minor offenses. In many States, they include: driving under the influence; drug possession; burglary; theft; assault; and many other serious crimes. In New York, "sexual assault of a minor in the third degree" is a misdemeanor offense. Someone with two convictions for any of these crimes would be eligible for a green card under this legislation. And that doesn't even include people who are prosecuted for felonies—but who plead guilty to a misdemeanor as part of a plea agreement.

This version of the DREAM Act also has very weak protections against fraud. As we saw in 1986, any time we expand eligibility for an immigration benefit we will create a new opportunity for fraud if we are not careful. Yet this bill actually protects the confidentiality of a DREAM Act application—even if it contains false information.

These are just some of the problems in this version of the DREAM Act that should have been debated in the Judiciary Committee, and subject to amendment under the regular order. None of these concerns with the DREAM Act are new, by the way. Like other Senators, I have made clear for years my concerns about loopholes for convicted criminals as well as protections against fraud.

Washington's credibility is the obstacle to broader immigration reform and rushing a flawed version of the DREAM Act in a lameduck session will only weaken Washington's credibility even further.

I also believe that these tactics show a lack of respect for those of us who want to see credible immigration reform. We all know that the majority—as well as the White House—have not kept their promises on immigration reform. They clearly hope a last-minute push for the DREAM Act during a lameluck session will outweigh 2 years of inaction and broken promises on this issue. These tactics clearly represent political gamesmanship: a cynical attempt to play on the hearts and minds of those who want real reform.

I continue to believe that our Nation would benefit from the DREAM Act being introduced and debated in committee; amended to address concerns with the bill; and incorporated into a credible immigration reform package that begins with border security and can win the support of the American people.

That is the kind of approach we need—the kind of approach I hope we can get once the new Congress takes up its responsibilities in January.

#### TAX CUTS

Mr. CASEY. Mr. President, last weekend I voted for legislation that would extend tax cuts for all Pennsylvanians. This legislation also included a continuation of expired unemployment insurance, a series of tax incentives that have created jobs in Pennsylvania like the R&D tax credit, the biodiesel tax credit which is essential to companies like Hero BX in Erie, the new markets tax credit and the payroll tax credit known as the HIRE Act. I also voted for permanent extensions of the enhanced child tax credit and earned income tax credit and the expanded adoption tax credit that I included in the health care reform law, all of which place money back into the pockets of working people across the Commonwealth.

According to the Pennsylvania Department of Revenue, out of 6.5 million filers in the Commonwealth in 2008, 98 percent had adjusted gross income below \$250,000. There is a consensus in Congress to extend tax cuts for these families. We should pass the middle income tax cuts, renew the job creation tax cuts and preserve unemployment insurance. We can then have a debate about the upper income tax breaks without using middle-income families and those laid off through no fault of their own as political bargaining chips. However, a long-term extension of tax cuts for upper income taxpayers, multimillionaires and billionaires, is not fiscally responsible for one reason: it adds hundreds of billions to the deficit without creating jobs or stimulating economic growth.

In recent months, I spoke to both business owners and economists to get their views on how Congress should handle the expiring tax provisions. What I learned is that certainty and consistency are needed when the economy is in such a fragile condition. We must reach a compromise. At most however, this might entail a short-term extension of upper income tax cuts and other ideas that could bring certainty without unduly increasing the deficit.

#### BOYS & GIRLS CLUBS

Mr. LEAHY. Mr. President, November and December bring with them a contagious holiday spirit. During a time when many Vermonters are struggling to feed their families and heat their homes, community members across Vermont are stepping forward to provide a helping hand to their neighbors. I am proud that Vermont takes to heart our country's great tradition of offering a helping hand to those in need.

While many of us were at home with our families this Thanksgiving, the