

that you will all join me in saying thanks to Lorraine for a job exceptionally well done.

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. FILNER] is recognized for 5 minutes.

Mr. FILNER. Mr. Speaker, I was unable to attend the session on Thursday, August 3, 1995. Had I been present, I would have voted as follows: 618—"no"; 619—"yes"; 620—"yes"; 621—"no"; 622—"yes"; 623—"no"; 624—"yes"; 625—"yes"; 626—"no".

VIACOM REVISITED: REPEAL OF THE TAX CERTIFICATION PROGRAM

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from California [Mr. DIXON] is recognized for 60 minutes as the designee of the minority leader.

Mr. DIXON. Mr. Speaker, before we leave for the recess, I wanted to take the opportunity to revisit our actions on February 21. On that day the House passed H.R. 831. The legislation ended a very successful minority tax certificate program and scuttled Viacom Inc.'s plans to sell its cable systems to a minority broadcasting company.

This was done under the guise of paying for a 25 percent health insurance tax deduction for the self-employed. Proponents of the move claimed that \$1.3 billion would be saved by ending the minority tax certificate program.

I strongly support legislation to ensure the deductibility of health insurance costs. However, I voted against H.R. 831 because the bill eliminated a program that provided minorities with the opportunity to own broadcast properties.

As a result of the elimination of the minority tax certificate program, Viacom has structured a new deal. Last week it was reported that Viacom has moved to rid itself of its cable systems, this time without selling to a minority entrepreneur. And guess what? There will be no addition of capital gains taxes to the Treasury.

My question is: What have we accomplished by repealing the tax certificate program, other than preventing a minority from owning Viacom's cable systems and reducing opportunities that future minority companies have to own broadcast properties?

For my colleagues who do not remember, let me recap the events. In January Viacom announced that it would sell its cable television systems to a partnership that was led by an African-American communications entrepreneur. That deal was ended by those who opposed a capital gains tax benefit that Viacom would have received for selling to a minority.

Representative BUNNING of the Ways and Means Committee explained the Republican's reason for ending the tax

benefit when he said "to pay for the 25 percent deduction, the bill repeals section 1701 of the Tax Code, that allows the FCC to issue tax certificates to companies that sell telecommunications properties to businesses with minority interests."

The tax benefit sought by Viacom was part of the Federal Communication Commission's tax certificate policy program. Created in 1943, it has been used for a variety of reasons. In 1978 the FCC began using the program to promote the sale of radio and television stations to minorities.

This program has been successful. From 1978 to 1995, the program resulted in increasing minority ownership of all broadcast properties from only 0.5 percent to 2.9 percent.

If the January Viacom deal had gone through, the FCC would have issued a tax certificate to Viacom. Viacom would have sent the tax certificate to the Internal Revenue Service and would have deferred paying capital gains taxes on the deal. The new Viacom deal will have essentially the same effect on the Treasury as the original deal—a deferral of tax revenue.

Although Republicans wanted to use the revenue to pay for the health insurance deduction, all the program's repeal has done is hinder minority access to capital and to broadcasting.

During debate on H.R. 831, Ways and Means Committee Chairman BILL ARCHER said that "the cost of the deduction's permanent extension is fully funded by several provisions which will greatly improve our Nation's tax laws." I do not see how ending the minority tax certificate program improves our tax laws when doing so only serves to impede minority access to ownership of broadcasting operations.

The Joint Committee on Taxation calculated that extending the 25 percent health insurance deduction for the self-employed would cost \$2.9 billion between 1995 and 2000. The committee also calculated the repeal of the minority tax certificate program at \$1.3 billion over five years, nearly half the revenue needed for the health deduction. If other deals are made to avoid paying capital gains taxes, where does that revenue come from?

While you may need an expert tax attorney to grasp the intricacies of the new Viacom deal, the results are easily explained. Viacom achieves its goal of paying no capital gains taxes and eliminates a large portion of its debt. TCI benefits by expanding its portion of the cable television market.

There is no benefit to the Treasury; no payment for the self-employed tax deduction; and no chance to expand minority ownership in broadcasting.

Let me be clear, there is nothing unusual about a company structuring a deal to avoid paying taxes. It happens all the time, and certainly proponents of ending the tax certificate program know that.

I believe that it was disingenuous for the Republicans to use the repeal of

the section 1071 program to "pay" for the health insurance deduction. There was no basis for acting on that assumption. Witnesses at hearings on the tax certificate program alerted them to the problems with that assumption.

Raul Alarcon, Jr., the president of the Spanish Broadcasting System had it right when he told the Ways and Means Committee:

It cannot be assumed that, but for the tax certificate program, each and every sale to a minority owner would have generated tax revenues in the year of the sale. Many owners would not sell their properties at all if they couldn't defer the taxes—or they would search for other tax-favored ways to sell their properties.

Beyond paying for H.R. 831, Republicans also argued that the minority tax certificate program should be repealed because it is unfair. This is certainly not true. Mr. William Kennard, general counsel for the FCC, pointed out that the tax certificate program is not a quota. It is not even a set aside. As he said, "It is a minimally intrusive, market-based incentive which has worked." The program has helped minorities overcome, in Mr. Kennard's words, the "greatest obstacle to ownership—attracting the necessary capital."

During the February 21 debate on the measure, Chairman ARCHER said that tax benefits should not be conditioned on classifications such as race or ethnicity. "Our tax laws should be, as I am, color blind."

The color blindness of the tax code is not the point. The point is that the tax code is used for a variety of public policy goals, such as savings and investment. It was good public policy to use the tax code to enhance minorities' access to capital and to encourage minority entrepreneurship.

In response to the concerns raised about tax certificate abuse, Ways and Means ranking member SAM GIBBONS and Representative JIM MCDERMOTT offered a substitute to H.R. 831 which preserved health insurance deductions for the self-employed and reformed the tax certificate program.

The substitute would have capped the amount of capital gains taxes that could be deferred under the tax certificate program at \$50 million and made significant reforms.

The Republicans opposed this alternative. An alternative which address concerns about abuse of the program—without completely dismantling the certificate program.

So what did the bill do? It eliminated a program which helped minority companies gain a foothold in broadcasting. It did not fund the health insurance tax deduction TCI, the Nation's largest cable systems operator, becomes even larger.

With the new Viacom deal in the works, where is the Republican opposition to another huge deferral of capital gains taxes? Where are the calls for

hearings on whether Viacom has unfairly prevented the government from collecting tax revenue? I don't expect to hear them.

I guess it is okay for nonminorities to avoid paying capital gains taxes, as long as they don't help minority entrepreneurs along the way.

Mr. Speaker, I would be pleased to yield to the gentleman from South Carolina [Mr. CLYBURN].

□ 1630

Mr. CLYBURN. I thank the gentleman for yielding. Mr. Speaker, I rise to express my outrage with congressional actions which discourage minority ownership of telecommunications businesses, while at the same time letting stand tax laws which encourage ownership among white owned entities.

In February, this body voted to kill a Federal program that provided tax breaks to companies that sell broadcast stations and cable TV systems to minorities. These actions were spurred by Viacom Inc.'s proposed \$2.3 billion sale of its cable TV systems to a group led by an African-American entrepreneur. The Federal Communications Commission minority tax certificate program allowed companies that sold to minority buyers to defer capital gains taxes on sales of radio and TV stations and cable systems. The program was designed to encourage such sales and to broaden minority ownership in an industry that is overwhelmingly dominated by whites.

The tax certificate program was established in 1978 and had been supported through four administrations, both Democratic and Republican. It was responsible for a fivefold increase in the minority ownership of broadcast properties. Even with that success, however, minorities represent only 3 percent of the industry's ownership today.

In this deal, Viacom would have been entitled to defer paying more than \$400 million in taxes under the program. While the program involved tax deferment, Viacom still would have been liable for the \$400 million in taxes at a later date. It would have had to reduce the amount by which it could write off other assets in the future. The U.S. Treasury would have eventually received these moneys and a single African-American would have become a small player in the telecommunications arena. By repealing the minority tax certificate program, the Congress sent a strong message that it has no interest in increasing minority ownership in the cable and TV industry.

Mr. Speaker, most interestingly, Viacom did eventually sell its cable division to a company known as Tele-Communications Inc. Under obscure tax provisions, this deal enables Viacom to avoid capital-gains taxes. This new deal means that Viacom will escape capital-gains taxes altogether. Its an even better deal than the sale to the minority buyer.

The message this scenario sends to the American people is that it is okay

for sellers such as Viacom to benefit from the Tax Code when the buyers are white, but not OK when the buyers are African-American or other minorities. True, Congress closed what has commonly been called the minority tax certificate "loophole." However, after these latest transactions, neither Viacom nor Tele-Communications has suffered. In fact, they both have benefitted by the shrewd use of the Tax Code. Minorities, on the other hand, are discouraged, and to some degree even prohibited, from seeking ownership of telecommunications entities. Shame on this Congress. There is much work to do.

Mr. DIXON. I thank the gentleman for his excellent comment on this issue and would yield to the gentleman from North Carolina for whatever time he may consume.

Mr. WATT of North Carolina. I thank the gentleman for yielding time to me, and I thank him for bringing this important issue to the attention of the Members of this body and to the American people.

Mr. Speaker, listen. What is that sound I hear? I think it is the deafening sound of silence that we always hear when we detect a double standard, and nobody, nobody wants to own up to it.

There is this deafening sound of silence about this Viacom deal because we knew there was an opportunity, we know there was an opportunity, and we know that an opportunity has been missed, and we know that a double standard has been set, and we know there is no justification for it except something is going on in our country that says anything that has any race notion to it, any equalization, any preference notion to it, any opportunity to equalize the playing field is going to get some kind of special scrutiny.

Well, we remember the Viacom deal last February. It was a deal that fell through because Republicans in this House rallied to repeal the minority tax certificate program.

That program permitted owners of broadcast and cable facilities to avoid capital gains taxes on the sale of broadcast or cable facilities to minorities. Had this program not been repealed an African-American business person would have become a serious player in the telecommunications industry. The program was designed to help minorities get some minimal foothold in the telecommunications industry.

We remember the deal, and we remember how outraged the Republicans were that a multimillion dollar corporation was going to get a tax break, a multimillion dollar majority corporation was going to get a tax break, they were outraged because they were going to get that tax break by selling a communications interest to a minority.

We remember how Americans were whipped into a frenzy over this issue

because they were told that a huge corporation would avoid paying taxes for selling its holdings just because it was selling those holdings to a minority member who didn't need affirmative action anyway.

Well, if we had just done away with that program and gone on and forgotten about it, maybe the American people would understand and be satisfied, but that is not what happened. What goes around tends to come back around, and so it did.

Viacom never gave up on the notion, the majority company never gave up on the notion of tax avoidance, and they went out and they struck another deal with what happened to be another majority communications company called TCI. That deal avoids all taxation just like the other deal that was so objectionable.

And what do we hear? What have we heard from our Republican colleagues in this very body? Where are you? We hear the deafening sound of silence. Not a word.

Well, what are we to make of this? Is this a double standard? It's OK to avoid taxation. Viacom can avoid taxation as long as it is selling its communications interests to another majority company, but it is not OK to avoid taxation if it is selling its interest to a minority communications interest.

What's the deal? What is it that we are saying? Is it OK for TCI and Viacom to avoid taxation through complex business deals? Is that OK? Is that affirmative action of some kind for those majority companies?

It is certainly an advantage that our Government has delivered to them to facilitate this deal and allow it to happen.

It is affirmative action when we provide a special consideration to our veterans because they have served our country? Is that an acceptable affirmative action?

Is it affirmative action when we say to major corporations that we will provide a tax credit for you to encourage you to do something good for our communities, to keep our air clean?

Well, I am not sure I understand the distinction between those kind of tax credits and savings and affirmative actions that benefit the majority community and the affirmative actions that you say are unacceptable when they benefit the minority community.

This entire Viacom episode really demonstrates once again as clearly as it can be demonstrated that we have gotten way out of whack when it comes to dealing with minority preferences and things that benefits minorities in this country. We cannot sit still for that to happen.

But what happens when the same kind of scenario plays out and benefits those who already have advantages? I submit to you, Mr. Speaker, it is a double standard, and we know what happens when there is a double standard and there is no, no, no justification for it.

We know what happens in this body, and we see it time after time after time after time. We hear it time after time after time. We hear that deafening sound of silence from our colleagues.

We have got to stand up and expose these things when they are inequities, and I commend my colleague from California for bringing this opportunity for us to make the statement in the interest of fairness because we will come back here after the break in this body, and I am sure we will not hear that deafening sound of silence from our colleagues come time to talk about affirmative action and things that may have some benefit to the minority community, but we certainly hear that deafening sound today.

I yield back to the gentleman from California and thank him again for sponsoring this special order today.

□ 1645

Mr. DIXON. I thank the gentleman from North Carolina for his contribution.

Mr. Speaker, just let me summarize what has occurred here over the past few months. I have served in this House for 18 years. I have not served on the Committee on Ways and Means, but I have served on the Committee on Appropriations. I have an idea of the conversations that went on.

This House wanted to participate in a program to allow people who were self-employed to deduct up to 25 percent of their medical insurance. We also at the same time had to find offsets for that money. It was going to cost \$2.3 billion. Somebody ran in the room with an article from a newspaper and said, "Did you know that an African-American is going to participate in a deal, and the taxes on that deal to Viacom, the selling company, are going to be deferred?"

Someone else said, "What is wrong with that?"

"Well, there are abuses in the program."

"Well, let's address the abuses."

The gentleman from Washington [Mr. McDERMOTT] and the gentleman from Florida [Mr. GIBBONS] presented an amendment on this floor to address those abuses. But there were other voices in the room that said, "But we need the money to offset the loss of revenue to the Treasury for the \$2.3 billion." So we called in witnesses. Mr. Kinard from the FCC said, "This is not a set-aside. It is not a quota. It is something that we have done because of good public policy, and we have been using this certificate for other things since about 1948."

"But we need to offset. We need to find the money."

Someone else came forward and said, "do not anticipate this kind of revenue, because, yes, the tax certificate is used, but people will either not sell or find some other tax structure to avoid it."

"But we need the revenue."

This bill comes to this floor, and the representation is made that we have

got to kill this Viacom deal. The policy is wrong, it is abused, let us correct it.

No.

Well, then, let us move forward, because when we kill this program, you see, it is going to produce \$1.3 billion.

Wrong again. Mr. Speaker, 831 did three things: It eliminated what I believe in my heart was a good program, that encouraged entrepreneurship in broadcast industries; it provided no tax revenue to the Treasury; and TCI, the largest cable company in the country, just got a little bit bigger.

So there is no doubt, Mr. Speaker, that this is not a colorblind society. There is no doubt in my mind that it is not a colorblind society. But when you look at the totality, you cannot expect minorities and women to understand why it is good for the majority in this country to take advantage of a tax deferral, but not good for a minority.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 1289 AND H.R. 2062

Mr. MFUME. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor of H.R. 1289 and H.R. 2062.

The SPEAKER pro tempore (Mr. FOX of Pennsylvania). Is there objection to the request of the gentleman from Maryland?

There was no objection.

WHERE WE ARE IN THE PROCESS OF THE REMAKING OF AMERICA

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from New York [Mr. OWENS] is recognized for 60 minutes as the designee of the minority leader.

Mr. OWENS. Mr. Speaker, we have just concluded the debate and the vote on the appropriations bill for the Education, Labor, and Human Services portion of the budget. We have almost concluded the entire appropriations process. The big one left, of course, is the Department of Defense. This process moves us a little further along the road toward the remaking of America.

Speaker GINGRICH and the Republican majority have said they intend to remake America. Speaker GINGRICH also says that politics is war without blood. So we have concluded the first phase of the war. The Contract With America with just a warm-up. The budget and appropriations process really opened the blitzkrieg. The first phase of the blitzkrieg is about to come to an end.

I think it is important to take this time to note that it has been devastating indeed. The people of America, the caring majority, the majority of the people in America, have been the victims of the beginning of this scorched Earth policy. Tremendous cuts have been made already, and this is just the first year in the effort to balance the budget in a 7-year period. This is the easiest one.

These cuts will escalate greatly over the next few years. So whatever has begun today, as horrible as it may be, is only the beginning. It is very important that the American people understand that this is only the beginning, and \$9 billion was cut from the Health and Human Services and Education and Labor budget, \$9 billion for the budget year that begins October 1 1995 and goes to September 30, 1996.

If \$9 billion was cut in this first round, you can imagine how much more will have to be cut and will be cut in the second round, the next budget year, because the budget for this year still leaves the Republicans, who are controlling the process now, with a deficit of \$170 billion, the House-Senate budget that concluded, under which we are laboring with respect to the appropriations now. That budget still left us with a deficit in 1996 of \$170 billion. Over the next 7 years, that deficit will go down from \$170 billion to a surplus of \$,614 billion in the year 2002.

In order to get that deficit down and end up with a surplus in the year 2002, drastic additional cuts have to be made. So it is important to understand where we are in the process of the remaking of America, in the process of this war without blood.

Speaker GINGRICH says that politics is war without blood, but he did not say it was without pain and he did not say it was without suffering. And there is a lot of blood, too. I think it is very important to note that in the process of making budget cuts in the appropriations process, the Committee on Appropriations went far beyond its jurisdiction, and they did a lot of legislating, against the rules; they violated the rules. This majority violates the rules whenever they see fit, and they have the same kind of contempt for rules that dictators and tyrants have. Rules are just to be played with the bourgeoisie and the folks who believe in little words on pieces of paper. They violate them when they get ready.

So a massive violation of the rules occurred in this appropriations process with respect to the Labor, Education, and Human Services appropriation. They had a large number of legislative matters introduced into the process. One of those matters related to the enforcement of health and safety standards on jobs by OSHA, the Occupational Health and Safety Administration.

One of those legislated items cut the effectiveness of OSHA by one-third. By cutting the budget by one-third and specifically saying that the cuts have to apply to the enforcement process, OSHA's enforcement administration, enforcement process, the people in charge of enforcing the rules and regulations on health and safety, they could not spend but two-thirds of their last year's budget. They are cut by one-third.

That is going to cause not just pain and suffering, but there will be some bleeding and dying, because last year