

BELGIUM

From Bulgaria, we travelled to Brussels, Belgium, where we were briefed by the U.S. representatives to NATO on the situation in Bosnia, including the recent bombing raids on Serbian positions. They advised us of the negotiations and cooperation between our NATO allies and the UN command in orchestrating the military operations after the Serbian mortar attack on Sarajevo. Significantly, they noted that these air strikes were focused on the Serb heavy weapon positions and on all lines of support for those weapons, including communication and control centers.

We also discussed the negotiation strategy for NATO, including the status of talks with Serbian strongman General Ratko Mladic. They expressed hope that these talks will be productive, although they noted that Mladic does not appear terribly cooperative. They also noted NATO's intention to proceed with the air strikes if Mladic and the Serbs do not remove their heavy weapons from around Sarajevo.

We returned to the United States on September 2, 1995.

U.S. SENATE,

SELECT COMMITTEE ON INTELLIGENCE,
Washington, DC, August 28, 1995.

The PRESIDENT,

The White House, Washington, DC.

DEAR MR. PRESIDENT: I think it important to call to your personal attention the substance of meetings which Senator Hank Brown and I have had in the last two days with Indian Prime Minister Rao and Pakistan Prime Minister Benazir Bhutto.

Prime Minister Rao stated that he would be very interested in negotiations which would lead to the elimination of any nuclear weapons on his subcontinent within ten or fifteen years including renouncing first use of such weapons. His interest in such negotiations with Pakistan would cover bilateral talks or a regional conference which would include the United States, China and Russia in addition to India and Pakistan.

When we mentioned this conversation to Prime Minister Bhutto this morning, she expressed great interest in such negotiations. When we told her of our conversation with Prime Minister Rao, she asked if we could get him to put that in writing.

When we asked Prime Minister Bhutto when she had last talked to Prime Minister Rao, she said that she had no conversations with him during her tenure as Prime Minister. Prime Minister Bhutto did say that she had initiated a contact through an intermediary but that was terminated when a new controversy arose between Pakistan and India.

From our conversations with Prime Minister Rao and Prime Minister Bhutto, it is my sense that both would be very responsive to discussions initiated and brokered by the United States as to nuclear weapons and also delivery missile system.

I am dictating this letter to you by telephone from Damascus as that you will have it at the earliest moment. I am also telefaxing a copy of this letter to Secretary of State Warren Christopher.

Sincerely,

ARLEN SPECTER,
Chairman.

DEPARTMENT OF LABOR, HEALTH
AND HUMAN SERVICES AND
EDUCATION AND RELATED
AGENCIES APPROPRIATIONS
ACT, 1996

MOTION TO PROCEED

Mr. SPECTER. Mr. President, on behalf of the distinguished majority leader and pursuant to the consent agreement, I move to proceed to the Labor-HHS appropriations bill, H.R. 2127.

Under the unanimous-consent agreement, at 10 a.m. there will be a 15-minute vote on a motion to proceed. If there are not 60 votes in the affirmative on the motion to proceed, there will then be a second vote at 11 a.m. on a motion to proceed. If there are not 60 votes on the second vote, the Senate will be recessed until later in the day to allow the Finance Committee to meet.

Remaining appropriations would be the State, Justice, Commerce appropriations bill and the continuing resolution.

Therefore, according to the instruction of the distinguished majority leader, a late night session is expected with rollcall votes throughout the day.

Now I do move to proceed, on behalf of the majority leader, to the Labor-HHS appropriations bill.

Mr. President, I spoke at some length yesterday afternoon on the import of this bill. It is my hope we would proceed to debate this bill. It is a very important piece of legislation, containing in excess of \$62 billion in discretionary appropriations for the Departments of Labor, Health and Human Services, and Education. It contains an additional \$200.9 billion in nondiscretionary expenditures. It is within the 602(b) allocations given to the committee according to the Congressional Budget Office.

I, frankly, would have liked to have seen more funds allocated to our subcommittee so we could have had more for very vital services under this bill. As it was, the allocation to the Senate subcommittee was almost \$1.6 billion above the House of Representatives, and those additional funds were placed significantly in the education account.

With the cooperation of Senator HARKIN, with whom I have worked for many years—last year Senator HARKIN was chairman, I was ranking; this year our roles are reversed—we made the best allocation we could, assisted by very able and competent staff, allocating funds in a very, very complex bill.

We have maintained funding for Goals 2000, which is in response to a 1983 report about the shambles in education, where sufficient actions have still not been taken. These goals are voluntary on the States. The States can accept the Federal standards and

goals or can adopt standards and goals on their own as they choose.

We have made provision for LIHEAP, low-income fuel assistance, which goes principally to the elderly who are without sufficient funds to buy their fuel. It is really a proposition, as the expression goes, of heating or eating that plagues those individuals.

We have made allocation for funding for violence against women. With the House figure being at \$32 million on the shelter issue—the full authorization was \$50 million—in our subcommittee allocations, we have found the funding for the full \$50 million.

We have presented a bill which has taken care of key issues of plant safety. We have stripped the bill of provisions relating to legislation because of our conclusion that legislation ought not to be included on an appropriations bill, a policy adopted by the full committee as a general matter on all appropriation bills under the leadership of our distinguished chairman, Senator HATFIELD.

On biomedical research, Mr. President, we have for the National Institutes of Health nearly \$11.6 billion, an increase of some \$300 million over the fiscal year 1995 appropriations. These funds will boost the biomedical research appropriations to maintain and strengthen the tremendous strides which have been made in unlocking medical mysteries which lead to new treatments and cures. Gene therapy offers great promise for the future. In the 15 years that I have been in the Senate, all those years on the appropriations subcommittee dealing with health and human services, where cuts have been proposed by Presidents, both Democrat and Republican, we have increased funding for medical research, which I think it is very important.

Two years ago, I had a medical problem and was the beneficiary of the MRI developed in 1985, after I had come to the Senate, a life-saving procedure to detect an intracranial lesion. So I have professional, political, and personal experiences to attest to the importance of health research funding.

On Alzheimer's disease, Mr. President, this last year the United States spent over \$90 billion to care for Alzheimer's patients. This devastating disease robs its victims of their minds while depriving families of the well-being and security they deserve.

We have been working to focus more attention and more money into the causes and cures of Alzheimer's. To address this problem, the bill contains increased funding for research into finding the cause and cures for Alzheimer's disease. The bill also includes nearly \$5 million for a State grant program to

help families caring for Alzheimer's patients at home. The statistics are enormously impressive, Mr. President, that if we could delay the onset of Alzheimer's disease, we could save billions of dollars.

On women's health, in 1995, 182,000 women will be diagnosed as having breast cancer and some 46,000 women will die from the disease. The investments in education and treatment advances led to the announcement last year that the breast cancer death rates in American women declined by 4.7 percent between 1989 and 1992, the largest such short-term decline since 1950.

And while this was encouraging news, it only highlighted the fact that the Federal Government investment is beginning to pay off. While it was difficult in a tight budget year to raise fundings levels, the subcommittee placed a very high priority on women's health issues. The bill before the Senate contains an increase of \$25 million for breast and cervical cancer screening, increases to expand research on the breast cancer gene, to permit the development of a diagnostic test to identify women who are at risk, and speed research to develop effective methods of prevention, early detection, and treatment.

Funding for the Office of Women's Health has also been doubled to continue the national action plan on breast cancer, and to develop and establish a clearinghouse to provide health care professionals with a broad range of women's health-related information. This increase has been recommended for the Office of Women's Health, because of the very effective work that that office has been doing.

On Healthy Start, Mr. President, children born of low birthweight is the leading cause of infant mortality. Infants who have been exposed to drugs, alcohol, or tobacco in utero are more likely to be born prematurely and of low birthweight. We have in our society, Mr. President, thousands of children born each year no bigger than the size of my hand, weighing a pound, some even as little as 12 ounces. They are human tragedies at birth carrying scars for a lifetime. They are enormously expensive, costing more than \$200,000 until they are released from the hospital.

Years ago, Dr. Koop outlined the way to deal with this issue by prenatal visits. The Healthy Start Program was initiated, and has been carried forward, to target resources for prenatal care to high incidence communities; it is funded as well as we could under this bill with increases as I have noted.

On AIDS, the bill contains \$2.6 billion for research, education, prevention, and services to embattle the scourge of AIDS, including \$379 million for emergency aid to the 42 cities hardest hit by this disease.

When it comes to the subject of violence against women, it is one of the epidemic problems in our society. The Department of Justice reports that

each year women are the victims of more than 4.5 million violent crimes, including an estimated 500,000 rapes or other sexual assaults.

But crime statistics do not tell the whole story. I have visited many shelters, Mr. President, in Harrisburg and Pittsburgh and have seen first hand the physical and emotional suffering so many women are enduring. In a sad, ironic way the women I saw were the lucky ones because they survived violent attacks.

The Labor-HHS-Education bill contains \$96 million for programs authorized by the Violent Crime Reduction Act. The bill before the Senate contains the full amount authorized for these programs, including \$50 million for battered-women shelters, \$35 million for rape prevention programs, \$7 million for runaway youth, and \$4.9 million for community demonstration programs, the operation of the hotline and education programs for youth. These funds have been appropriated, Mr. President, after very, very careful analysis as to where the subcommittee and the full committee felt the money could best be spent.

On the School-to-Work Program, the committee recommends \$245 million within the Departments of Labor and Education, which is maintenance of the level provided in 1995. We would like to have had more money, but that was the best we could do considering the other cuts.

On nutrition programs for the elderly, for the congregate and Home-Delivered Meals Program, the bill provides almost \$475 million. Within this amount is \$110.3 million for the Home-Delivered Meals Program, an increase of \$16.2 million over the 1995 appropriation because there are such long waiting lists, so many seniors who really depend upon this for basic subsistence.

On education, we have allocated the full amount of the increase that our subcommittee received, some \$1.6 billion. The bill does not contain all of the funds we would like to have provided, but it is a maximum effort on this important subject.

As to job training, Mr. President, we know all too well that high unemployment means a waste of valuable human resources, inevitably depresses consumer spending, and weakens our economy. The bill before us today includes \$3.4 billion for job training programs. And again, candidly, I would like to see more, Mr. President, but this is the maximum that we could allocate.

As to workplace safety, the bill contains an increase of \$62 million over the amount recommended by the House for worker protection programs. While progress has been made in this area, there are still far too many work-related injuries and illnesses, and these funds will provide programs and inspect businesses and industry, weed out occupational hazards, and protect worker pensions within reasonable bounds.

LIHEAP is a program which is very important, Mr. President, to much of America. It provides low-income heating and fuel assistance; 80 percent of those who receive LIHEAP assistance earn less than \$7,000 a year. It is a program which was zeroed out by the House, and we have reinstated it in this bill. We have effectively included a total of \$1 billion here, \$100 million of which is carryover funds, as we understand the current state of affairs, although it is hard to get an exact figure, and an additional \$900 million.

As the Congress consolidates and streamlines programs, Federal administrative costs must also be downsized. In this bill, with the exception of the Social Security Administration, we have cut program management an average of 8 percent. Many view administrative costs as waste and others suggest that deeper cuts are justified. It is our judgment that any further reductions would be counterproductive.

In closing, Mr. President, I want to thank the extraordinary staffs who have worked on this program. On the Senate side, Bettilou Taylor and CRAIG Higgins have been extraordinary and professional in taking inordinately complicated printouts and working through a careful analysis of the priorities.

We received requests from many of our colleagues. And to the maximum extent, we have accommodated those requests. We have received many requests from people around the country. We have accommodated as many requests for personal meetings as we could, both with the Senators and with their staffs. And we think this is a very significant bill.

There are people on both sides who have objected to provisions of the bill. When a motion to proceed is offered, it is my hope that we will proceed to take up this bill and that we will pass it. We are aware that there has been the threat of a veto from the executive branch, and I invite the President or any of his officials to suggest improvements if they feel they can do it better.

There is a commitment in America to a balanced budget and, that is something we have to do. We have structured our program to have that balanced budget within 7 years by the year 2002. The President talks about a balanced budget within 9 years. I suggest that our targeting is the preferable target.

To the extent people have suggestions on better allocations, we are prepared to listen, but this is our best judgment. We urge the Senate to proceed with this bill.

At this time I yield to my distinguished colleague, Senator HARKIN.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Mr. President, I inquire of the Presiding Officer, how much time does this side have?

The PRESIDING OFFICER. There are 27 minutes 46 seconds remaining on

your side and there are 18 minutes remaining on the side of the Senator from Pennsylvania.

Mr. HARKIN. Mr. President, I again thank my colleague, Senator SPECTER, for his kind and generous remarks on my behalf. I want to repay them in kind. Senator SPECTER is right, we have worked together for many years. We have switched places, majority/minority, but that has not in any way lessened or in any way changed our relationship. It is one of, I think, mutual respect and one in which we have worked together to try to fashion the best bill we possibly could, having been dealt a bad hand. So I commend Senator SPECTER and his staff for doing the best possible job with the bad hand of cards that was dealt to us.

I especially want to draw attention to Senator SPECTER's efforts to restore funding for rural health care and the health and safety protections for workers, and especially his dogged determination to ensure that we have funding for the Low-Income Home Energy Assistance Program.

I also credit my colleague, Senator SPECTER, for stripping the bill of its many unnecessary and inappropriate legislative riders, matters that ought rightfully to be taken up by the authorizing committees and not by the Appropriations Committee.

Unfortunately, the committee did agree to include in this bill an amendment on striker replacement, which has resulted in the situation we find ourselves in today. I reluctantly agreed to this procedure suggested by Senator DOLE because I am strongly opposed to the striker amendment and because, on the floor, the bill would have attracted scores of additional extremist legislative riders.

So, for the benefit of Senators, what we face right now is a vote on the motion to proceed that will take place at 10 o'clock. That vote, really, is a vote on whether or not we will have within this appropriations bill a rider that says that President Clinton cannot execute his Executive order which bans corporations—and I will get into the details of it later—bans companies having business with the Federal Government, contracts with the Federal Government, from replacing legitimate strikers with permanent replacements.

We had a vote on this earlier this year and the vote failed, the cloture vote failed on that vote. So this is the same issue we have before us, whether or not the President can implement his Executive order on striker replacement or whether we will have this rider on the appropriations bill prohibiting that implementation. So, that is what is facing us right now, and that vote will take place at 10 o'clock.

Before I yield on the issue of striker replacement to my colleague from Minnesota and my colleague from Massachusetts, let me just say a couple of words about the bill in front of us. As I said, Senator SPECTER did a commendable job with the bad hand we

were dealt, but I think this chart really points out the problems that we have in dealing with education, with health, with workers protection, with summer youth employment, with low-income home energy heating assistance—all of the things that are in this bill that help advance our country educationally, socially, and try to make life a little bit better and give more opportunity to more people.

What we say is, over 1992, 1993, 1994, 1995, our allocations and budget authority increased by a little over 10 percent—about 15 percent—over those years. This year, our allocation has dropped back to where we were in 1992 in the House, 1993 in the Senate. So, because of this, we have a bill which cuts adult training programs by \$167 million; reneges on our commitment to dislocated workers programs; it eliminates the summer youth employment program; it cuts by 13 percent our efforts to combat waste, fraud and abuse in Medicare; it undermines our battle and fight in the war against drugs by cutting money for safe and drug-free schools. his bill cuts 48,000 children from the Head Start Program. It cuts the Goals 2000 Program well below the level proposed by the President. These are just some of the items that we had to cut and reduce because of the allocation that we had—all in the face of giving the Pentagon, I might add, \$7 billion more than they even asked for.

The Pentagon gets \$7 billion more than they even asked for, yet in programs that are necessary for the health, safety, security, and education of the people of this country, we have cut those \$8 billion. That is what we are confronted with.

Having said that, Mr. President, I now want to turn to the issue of striker replacement, the issue that is really before us on the vote at 10 o'clock. I know the Senator from Minnesota wanted to speak on this, but let me just set the stage for this.

The President issued an Executive order regarding the permanent replacement of striking workers for companies that do business with the Federal Government. The President's action is fully lawful and within his authority and conforms with the practice of previous Presidents, including President Bush, who used this authority twice during his 4 years, and this Congress did not try to strip him of that power. And yet now this Congress wants to strip this President of his lawful right to issue this Executive order.

I would yield 5 minutes to the Senator from Minnesota.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. I thank the Chair. I thank the Senator from Iowa. I would also like to thank my colleague from Massachusetts for his graciousness in letting me speak right now. He was first on the floor, and I appreciate him letting me have this opportunity.

Mr. President, let me follow up on the words of the Senator from Iowa.

Actually, not just President Bush has used such an Executive order but Roosevelt did, Truman did, Johnson did, Nixon did, and Bush has. It is unfortunate that this amendment is in this bill, and I rise to object to the amendment and I rise to object to our proceeding on this bill. We have had this debate before. We had a vote on this before, and I fully expect again today that we will have the vote against this amendment.

Mr. President, what the Executive order says is the Federal Government will no longer purchase goods and services from firms which permanently replace their workers in response to a lawful strike.

That is in the national and public interest because that has a lot to do with what kind of contractors produce what kind of quality work for this Nation.

In addition, it is a basic standard of fairness. It has to do with on which side is the Federal Government. I cannot understand for the life of me why the opposition to this protection for working people in this country. The pattern is clear. It is a pattern in Iowa, in Minnesota, in Massachusetts, in all across the country, and it is a pattern of some companies. Thank goodness, a lot of companies are precisely the opposite in their modus operandi. A lot of companies understand that you want to have cooperation between employees and employers, that that is the way to have high morale; it is the way to have high levels of productivity. But in all too many cases, some of the bad apples force impossible concessions onto their work force, which means that people have wages on which they cannot support their families or they have to work under conditions that threaten their very health, their life, and their limb, and therefore what happens is the employees have no other choice but to go out on strike, which is precisely what the companies want them to do because when they go out on strike they permanently replace them.

The right to strike, which is part of the leverage of working people in this country, which is part of their right to bargain collectively, has become the right to be fired. And so the President of the United States of America has said the Federal Government is going to be on the side of working people. We are not going to do business with businesses that force people out on strike and then permanently replace them. That is on the part of the President of the United States a positive and powerful message.

The reason I feel so strongly and am absolutely opposed to our proceeding on this bill and hope this amendment will be removed has to do with the context of the times that we are living in, and the context is simple. The bottom 75 percent of the population feels the economic squeeze—low wages, wages that are not living wages, working people losing their bargaining power, more and more mergers, banks buying

banks, pharmaceutical companies buying pharmaceutical companies, more concentration of power in the telecommunications industry, conglomerates dominating the economy.

Where do regular people fit into this equation? Cutbacks in occupational health and safety protection, cuts in Medicare and Medicaid and health care, cuts in protection for children. It seems to me that somewhere in the equation working families, the majority of people of this country who do not own all the wealth and all the capital and who are not the big players and do not make all the big contributions ought to have some representation in the Senate.

I believe the President of the United States has through this Executive order sent a positive and important message that he stands with working families. I think we in the Senate who are opposed to this amendment to defund this Executive order are sending the same message, and I urge my colleagues to vote against this amendment and to vote against the motion to proceed.

I thank both Senators for yielding me time.

Mr. HARKIN. I thank the Senator from Minnesota.

Mr. President, I yield 15 minutes to the Senator from Massachusetts.

The PRESIDING OFFICER (Mr. SMITH). The Senator from Massachusetts.

Mr. KENNEDY. I thank my friend and colleague from Iowa for yielding the time, and I would yield myself 13 minutes.

On March 8, 1995, President Clinton took a dramatic and long overdue step to put the federal government on the side of fair and efficient labor relations. He issued an Executive order which makes it the policy of the executive branch to prohibit Federal contracts with employers who permanently replace workers who exercise their lawful right to strike.

It was the right thing to do, not just because it will promote better labor relations among Federal contractors, but because it tells America's workers that the Government will not let itself be used to help grind down their wages, break their unions, or punish them for asserting their legal rights.

Today, for the second time this session, we are debating a Republican attempt to block implementation of President Clinton's Executive order through a rider on an appropriations bill. Last March, we were successful in preventing that effort. The attempt to block implementation of the Executive order has no place on this or any other appropriations bill, and I hope the Senate will vote today to block this bill as long as this rider is included.

If anything, the case for the Executive order is even stronger now than it was in March. When we debated this issue 6 months ago on the defense appropriations bill, we heard over and over again that we needed to act be-

cause the President was usurping his authority, acting contrary to law, even violating the constitutional separation of powers.

But since that time, those arguments have been heard in court and resoundingly rejected. On July 31, Judge Gladys Kessler of the Federal district court for the District of Columbia upheld the Executive order against a challenge by the Chamber of Commerce and various other business groups.

In her decision, Judge Kessler ruled that President Clinton acted within his authority over Federal procurement, that there is a close nexus between the Executive order and efficient procurement; and that the Executive order does not conflict with the National Labor Relations Act. In other words, the court rejected all of the major arguments that have been made against the Executive order.

The President has not abused or exceeded his legal authority. He has the power, given him by Congress in the procurement laws, to deny Federal contracts to employers who use permanent replacements for striking workers. And as the Federal court specifically found, the President's action does not change or conflict with the National Labor Relations Act.

There is no merit to the argument that he has done an end run around the Congress by trying to accomplish what the striker replacement bill had failed to do. The Executive order is much more limited than the striker replacement bill. The Order does not make the use of permanent replacements illegal. It deals only with how the Government chooses its suppliers of goods and services. And that, the court has ruled, is a matter within the President's authority over the Government procurement process.

Judge Kessler found clear precedent for the striker replacement Executive order in President Nixon's 1970 Executive order requiring bidders on federally assisted construction projects to submit an affirmative action plan, President Carter's Executive order requiring companies seeking Federal contracts to be bound by wage and price controls which were voluntary for everyone else, and President Bush's Executive order requiring Federal contractors to post notices advising employees of their right not to join a union.

Perhaps the most direct analog, she said, was the Executive order issued by President Bush in 1992, which required that contractors, as a condition of securing contracts with the Federal Government, refrain from entering into perhire agreements with labor unions—even though the Supreme Court has held that such agreements are legal and permissible under the National Labor Relations Act.

So let us hear no more that this is an unprecedented action by President Clinton and that somehow it exceeds his Executive authority. There is ample precedent and ample authority

for the President to take this action. This is no different than the authority exercised by other Presidents before him, Republicans and Democrats alike.

The requirements imposed on Federal contractors by President Bush—banning perhire labor agreements and requiring employees to be told they didn't have to join a union—were never enacted by Congress. But when those orders were issued, were there any protests from my Republican colleagues? The answer is no. In fact, many of my colleagues took to the floor to applaud those actions. It is clear that the objections that are now being raised to President Clinton's action are not based on principle, or a consistent view of the President's authority with respect to labor relations or Federal procurement. They are part of a persistent and unconscionable Republican attack on basic protections for working men and women.

We see it in the relentless efforts by Republicans to repeal the Davis-Bacon Act, which helps to assure decent wages for hard-working construction workers who make, on average, \$27,000 a year. We see it in the Republican proposal now making its way through the Congress to roll back the earned income tax credit, and raise taxes for 39 million low-income working Americans to pay for tax breaks for the wealthy. We see it in the attempt to open gaping holes in the pension laws to allow companies to raid billions of dollars from workers' pension funds. We see it in the refusal of the Republican leadership to even allow a vote on increasing the minimum wage, which in real terms is lower now than it has been at any time in the past 40 years.

Seven times since the enactment of the first Federal minimum wage law in 1938, bipartisan majorities of the Congress have reaffirmed the Nation's commitment to working families by voting in favor of increasing the minimum wage. Increases have been proposed and supported by Republican as well as Democratic Presidents. Six years ago, 89 Senators—including all but 8 of the Republican Senators—voted for a minimum wage increase of 90 cents, an increase identical to that which has been proposed by President Clinton. Yet now we are not allowed to even vote on the issue. Republicans are for a minimum wage all right—the minimum wage possible.

Republicans are for the right to strike, as well—as long as striking workers can be permanently replaced—which means no real right to strike at all.

We are prepared to move forward to consideration of important spending issues in this bill, and we should do that. But we are not prepared to acquiesce in letting this bill be used as a vehicle for yet another attack on working families. And let us be clear—that is what this vote is all about.

The basic principle behind the President's action has strong public support.

In a recent poll, 64 percent of respondents said that once a majority of workers have voted to strike, companies should not be allowed to hire permanent replacements to take their jobs.

This is a question of simple justice for workers. If it is unlawful for an employer to fire a worker for exercising the right to strike, it should be equally unlawful for an employer to deprive a striking worker of his job by permanently replacing him.

Today, more than ever, employees need the right to organize to improve their wages and working conditions, and to bargain with their employers over those issues. There is no inconsistency between fair profits for management and fair treatment for workers.

But the right to organize and bargain collectively is only a hollow promise if management is allowed to use the tactic of permanently replacing workers who go on strike.

No one likes strikes—least of all the strikers, who lose their wages during any strike and risk the loss of health coverage and other benefits. Both workers and employers have a mutual interest in avoiding economic losses. The overwhelming majority of collective bargaining disputes are settled without a strike. But the right to strike is a cornerstone of our labor laws. It helps to ensure that a fair economic bargain is reached between management and labor.

The opponents of this Executive order plead that if employers do not have the right to permanently replace workers who go on strike, their only alternative is to go out of business. But hundreds of strikes occur and are settled every year without workers being permanently replaced, and without businesses being permanently damaged. These strikes are settled through precisely the process that our labor laws are designed to encourage—serious, meaningful give-and-take between the parties, to negotiate a solution that both sides can accept. That is the kind of outcome that President Clinton is encouraging through this Executive order.

The recent experience of workers on strike against the Tiffany Office Furniture Co. in Conway, AR—a company with major contracts with the Federal Government—is a good illustration of the positive benefits of the Executive order. Members of the Southern Council of Industrial Workers struck the company on June 6 after rejecting a contract that among other things, would have cut certain health benefits. Negotiations were going nowhere, and the company appeared headed toward hiring permanent replacements when an officer of the union learned about the President's Executive order.

On July 7, the union officer sent a letter to the company on explaining the Executive order. He told the local newspaper, "from that point forward there was concentrated settlement discussion." Within 2 weeks the parties

had reached agreement on a contract that preserved health benefits with a reasonable cost-sharing arrangement for coverage of family members and for the first time gave workers a retirement program.

Instead of the pain, economic hardship and emotional suffering for workers, their families and their communities that inevitably occurs when strikers are permanently replaced, union officials report that what has been gained is a mutual respect between the workers and the company and a resumption of normal relations with a firm foundation for the future.

That is a perfect illustration of why it is both important and appropriate for the President to use his executive authority to ban the use of permanent replacements by federal contractors. Hiring permanent replacements encourages intransigence by management in negotiations with labor. It encourages employers to replace current workers with less experienced workers willing to settle for less—and to accept smaller paychecks and other benefits. Clearly that practice has a negative impact on the efficiency and quality of performance on Federal contracts.

The Executive order helps restore the balance that has been lost in recent years.

It is particularly distressing for us to be spending this time debating an ill-conceived extraneous rider on labor law, instead of addressing the important challenges on issues that belong in this appropriations measure. I want to address two of these issues here—the unacceptable cuts in education, and the cuts in job training proposed by our Republican colleagues in this bill.

These are difficult days for children, students, and working families. On Tuesday of this week, Republicans slashed college student loans by \$10 billion over 7 years. Now they propose to cut federal education spending by an additional \$2.4 billion next year and \$40 billion by the year 2002—all to help pay for a \$245 billion tax break for the wealthy.

This is no time to be cutting education. Our schools are filling with more students than ever before. Total public school enrollment is projected to rise from 45 million in 1995 to 50 million by 2005—an increase of 10 percent. In the face of this surge in enrollment, it makes no sense to slash funding for education. Increased funding is necessary just to maintain the same level of services, let alone provide the wise investment we need to improve education and build a stronger future for the Nation.

We should not turn our backs on education just as the nation is beginning to reap the benefits of a better educated work force. More students are finishing high school, more students are entering college, and more students are graduating from college than ever before. The Bureau of Labor Statistics estimates that about 20 percent of income growth during the last 20 years

can be attributed to students going further in school. We can build on this record by investing more in education, not less.

Slashing education in today's economy is like cutting defense in the middle of the cold war. To be successful in the years ahead, young men and women need communication skills and problem-solving skills. They need a grasp of basic scientific and math concepts. They need a familiarity with computers, and the ability to work as part of a team.

As technology changes and economic competition brings the world closer together, the demand for better-educated workers is growing, and the demand for workers with lower skills is declining. In the last decade, jobs for those with low levels of education grew by only 7 percent, while employment in high-skill occupations increased by an impressive 32 percent. These unwise cuts will affect real students in real schools in real communities throughout the country.

As States across the Nation recognize the urgency of school reform, it makes no sense to reduce Federal funds designed to encourage such reforms. Yet 1,600 of the 9,000 schools participating in the Goals 2000 program will lose funds under this Republican amendment.

Drug use by students is on the rise and too many students are victims of crime in their schools. Yet Republicans are cutting funds that support 97 percent of communities and make it possible for 39 million students to learn in safe and drug-free schools.

Preschool enrollment has doubled, giving children a better chance to enter school ready to learn. Yet Republicans are cutting \$132 million from Head Start.

The achievement gap between students in poor and wealthy schools is narrowing. Yet Republican cuts will deny assistance to 650,000 disadvantaged students.

High school graduates are obtaining better job training, finding better jobs, and earning more in those jobs. Yet Republicans are cutting \$83 million from vocational education and \$867 million from summer jobs to help youths and adults gain job skills and pursue more productive careers in a changing economy.

The issue is priorities. It makes no sense to reduce education investments needed to improve the lives of students and working families. It makes even less sense to do so in order to pay for tax breaks for the wealthiest individuals and corporations in our society.

As was pointed out earlier in the course of this debate, over the period of the last months there has been a series of attacks on the rights of working men and women in this country. First, there was the attempt to cancel out the Davis-Bacon Act. That attempt would effectively guarantee for construction workers, who work 1,700 hours in the course of a year, that their

average income of \$27,000 will diminish, and attacks their livelihood.

There has been a resistance by our Republican colleagues and friends to raise the minimum wage so that men and women who work 40 hours a week, 52 weeks a year, are able to provide bread on their table, a roof over their house, the mortgage payments, and clothes for their children, to make work honorable, respectable, and to make work pay.

They not only resist increasing the minimum wage, they want to turn back on the earned income tax credit. Who is eligible for that? Those working families that are prepared to work, are working, and they make less than \$26,000 a year.

Attack on the Davis-Bacon Act; attack on the minimum wage; attack on the EITC; and an attack on educating the children of those working families, as we saw in the Labor Committee this past week, by putting an additional tax on the scholarship assistance that the sons and daughters of working families receive. The more they need in terms of student assistance, the higher the tax is on them and on their schools. That is fundamentally wrong.

We are also seeing an attack on the parents of those working families in the Finance Committee by decreasing the coverage of their parents under the Medicare system. That will mean more copayments, more premium increases, and an increase in the deductibles. That is what is happening for working men and women in this country at the hands of this Republican Congress.

President Clinton has stood up for them with this particular provision, and now we have the attempt to try to deny these individuals who are trying to provide work for their families their right to be able to be included in the job market.

Finally, Mr. President, I think we ought to recognize what has happened to the Nation's commitment to education in the underlying bill. The job done by Senator HARKIN and Senator SPECTER has been superb in trying to take scarce resources and focus them on the areas of greatest need in terms of our national investment.

But there is still a serious cutback on the basic Head Start Program, which tries to enhance the opportunities for young children to develop the kinds of competence and skills to project them into the early years of education;

Cutbacks on the chapter 1 program that targets needy children for special help and assistance that was reshaped last year with strong bipartisan support;

The denial of the 90 percent of the Federal funds that would be available to the States at the local community level to help enhance the academic achievements at the elementary and secondary education level with Goals 2000;

The reduction in the School-to-Work Program to take three-quarters of the

kids that do not go on to college, and to give them some additional opportunity to get into gainful employment.

All of these programs have been reduced.

The absolute abandonment of the commitment for the Summer Jobs Program—this is in the wake of the debate on the Welfare Reform Program, where we are talking about trying to get people off welfare and into employment. Under President Bush, we had 872,000 summer jobs. They have been zeroed out under the Republican program, zeroed out.

How can we, on one day, talk about getting people off welfare, building a work ethic, and trying to get them involved in jobs, and on the next day effectively wipe that program out? In the wake of what this Congress did in the welfare debate and the kind of commitment we had to summer jobs under President Bush, how can we zero out this program now? It makes no sense whatsoever. That is what has been done in the appropriations recommendation.

So, Mr. President, the issue that is before us is fundamental and basic to working families, to their education, to their own income, and to the future, I believe, of this country.

It is difficult to exaggerate the short-sighted Republican priority that would short-change education. Education has been the essence of the American dream and the core of the American experience from the beginning of the Nation.

Mr. President, there is one wonderful quote that I came across and, as a matter of fact, reread yesterday, by the former Senator from Massachusetts, Daniel Webster, when he made this extraordinary speech in Faneuil Hall to give testimony upon the deaths of John Adams and Thomas Jefferson. He made this point—I came across it again yesterday, and it was appropriate at a time that our Human Resources Committee was denying and making it more difficult for the children of working Americans to obtain a higher education. But it is also applicable as we consider the appropriations bill now that is before us.

Over a century and a half ago, Daniel Webster made the point about the importance of education in his famous oration on the lives and service of John Adams and Thomas Jefferson. Both of those two great Presidents died on the same day, on July 4, 1826. On August 2 of that year, Daniel Webster spoke about them in Faneuil Hall in Boston, about their leadership and example on education.

But the cause of knowledge, in a more enlarged sense, the cause of general knowledge and of popular education, had no warmer friends, nor more powerful advocates, than Mr. Adams and Mr. Jefferson. On this foundation they knew the whole republican system rested; and this great and all-important truth they strove to impress, by all the means in their power. In the early publication already referred to, Mr. Adams expresses the strong and just sentiment, that

the education of the poor is more important, even to the rich themselves, than all their own riches. On this great truth, indeed, is founded that unrivaled, that invaluable political and moral institution, our own blessing and the glory of our fathers, the New England system of free schools.

That was true for New England schools in the early years of our Nation. It is true for schools all across America today, and no bill that contains deep cuts in funds for schools deserves to pass.

This bill also deserves to be defeated for a further reason. It is an unconscionable attack on the dreams and aspirations of millions of working families across the country and their hopes for the future. I am talking about the fundamental tools, the building blocks, we have crafted in a bipartisan manner, in good faith, to provide realistic hope of the opportunity that comes with a decent job.

This bill breaks that faith. For example it proposes drastic cuts in the Summer Youth Program. This program has historically received strong bipartisan support. It began in 1964, and has been providing jobs for low-income youth for over 30 years under both Democratic and Republican administrations. In fact, it reached its highest level of assistance to young people under President Bush in 1992, when it provided summer jobs for 782,000 young men and women.

Even at this high water mark, we were barely beginning to meet the real need that exists. With over 8 million eligible youth across the country, deserving participants are far more numerous than we have positions for. In recognition of budget constraints, the current program is already 25 percent smaller than it was under President Bush. In 1995 we are serving 600,000 youth, and we anticipate reaching 550,000 in 1996 under President Clinton's funding request. That level represents jobs for only 6 percent of the eligible population. It is a priceless opportunity for the few who get to participate. We ought to be doing more, not less. It is unconscionable to do nothing.

All Senators know in their States that there are communities, towns and cities full of youths looking for this ray of hope. The Summer Jobs Program reaches out and provides their first experience with a job. Many have parents who are not working. Many live in areas where there are few opportunities to find employment, even for a short time. These summer jobs can make all the differences in their lives.

In our recent debate over welfare reform, there were many harsh comments about welfare dependence and lack of responsibility and the need to get these people a job. Everyone agrees that these people, as they are callously described, need employable skills so that they can get a job and perform effectively. It is ironic that in one of the first pieces of legislation we consider after the welfare debate, the Republican majority proposes to tear down a

program which can provide the very skills we all agree are needed for successful employment. They call their reform tough love—but it would more appropriately be called tough hate.

Some of the most virulent and most ideological critics claim that all programs like the Summer Jobs Program are ineffective.

They think Government has no business spending tax dollars on welfare for individuals—the only welfare they support is corporate welfare. Look at what the Department of Labor's inspector general said after his office analyzed the Summer Jobs Program.

The work projects are worthwhile. Summer jobs are real, not make-work. Kids were closely supervised, learned new skills they could apply to their school work, and took pride in their employment.

Westat, Inc., a private research company, reported similar positive findings after undertaking a study of the program. A survey of supervisors involved with the program indicated no serious problems relating to behavior, attendance, or turnover by the youths in the program. The bottom line is, this program works and yet it is now facing elimination by the Republican majority in Congress.

In Massachusetts, we will lose over 13,000 summer jobs. Boston youth will lose over 1,500 job opportunities, Springfield teenagers will lose another 1,200 jobs. Where will they turn? The private sector plays an important role in providing summer employment—but they are the first to tell us they cannot possibly fill the gap for the hundreds of thousands of young men and women looking for work and experience. The youth who don't get jobs will more likely turn to the very elements we are hoping they can avoid—crime, gangs, drugs, welfare, and unemployment.

Where is the hope for the youths on the street with nothing to do but hang out on the corner and watch the drug buys occur? Where is the hope for the teenager who is fighting the temptations of the gangs but is unemployed? Where is the hope for the young men and women who want to graduate from high school and get a job—but have no idea what it takes to get a job and keep it?

So far in this Congress we have seen the Republican majority turn its back on the Nation's youth in many ways. Unprecedented cuts in student aid, the elimination of funds for the AmeriCorps National Service Program, deep cuts in the School-to-Work Program, deep cuts in education funds for disadvantaged pupils, the elimination of summer jobs. Again and again we ask, where is the hope? Where is the heart?

This bill should be a creator of hope, not a destroyer of hope. It is a deeply flawed bill that doesn't deserve to pass, and I urge the Senate to oppose it.

Mr. President, I yield the remainder of my time to the Senator from Iowa.

Mr. HARKIN. Mr. President, I thank the Senator from Massachusetts for his

eloquent remarks and for his long-standing and strong support for the working people of this country.

There is no one in this Senate and in this Congress who has stood up more over a longer period of time and who has spoken more forcefully and eloquently for the working people than the Senator from Massachusetts. What the Senator just said in his closing remarks regarding the leadership of Thomas Jefferson and John Adams in education really had to bring it home to us again here today what we are doing.

Mr. President, again, to repeat for Senators, what we are facing right now is a vote at 10 o'clock on a motion to proceed. I am opposed to that motion to proceed because of the inclusion in the Labor, Health and Human Services appropriations bill of a rider, a rider that says that President Clinton cannot implement his Executive order regarding permanent replacement of striking workers.

Mr. President, I strongly oppose this amendment restricting the implementation of President Clinton's Executive order regarding permanent replacements for striking workers. First of all, the President's action is entirely lawful, fully within his authority, and conforms with the practice of previous Republican Presidents in labor issues. And perhaps more importantly, instead of passing such an amendment we should be saluting the leadership of the President in providing a good degree of protection for workers that Congress failed to enact last year in the striker replacement bill.

Under the Executive order, American workers in companies doing business of over \$100,000 with the Federal Government can finally be assured that they will not be permanently replaced if they go out on strike. While that represents only 10 percent of all contracts, this order will affect 90 percent of Federal contract dollars.

The proponents of the amendment to nullify this claim that they are trying to maintain the power of the Congress over this matter. But it is clear that Congress has already acted to give the President this power, in the Federal Property and Administrative Services Act of 1949. We have spoken on this issue and this amendment is just an attempt to second-guess the President on an issue that is fully within his authority. President Bush used the same statutory authority to issue two Executive orders concerning labor. Yet we didn't hear our colleagues on the other side of the aisle complaining then.

Furthermore, the U.S. District Court for the District of Columbia rejected a challenge to the President Clinton's Executive order on striker replacement on July 31, 1995. Specifically, the court held:

First, President Clinton acted within his procurement authority;

Second, there is a close nexus between the Executive order and efficient procurement; and

Third, Executive Order 12954 does not conflict with the National Labor Relations Act.

In other words, the court rejected all of the major arguments that have been made against the Executive order. The President has not abused or exceeded his legal authority—he has the power, given him by Congress in the procurement laws, to deny Federal contracts to employers who use permanent replacements for strikers.

In addition, there is no merit to the argument that he has done an end run around the Congress by trying to accomplish what the striker replacement bill had failed to do. President Clinton's Executive order is much more limited than S. 55, and deals only with how the Government chooses its suppliers of goods and services. The order does not attempt to change the National Labor Relations Act or outlaw the use of permanent replacements for strikers. It governs their use only with respect to the narrow class of Federal contractors.

Nobody has a right to receive a Federal contract. As one contracting party, we can insist on any conditions we choose. The findings of the Executive order state that prolonged labor disputes adversely affect costs of operations. Employers who want to insist on their right to permanently replace striking workers can do so—they just can't get Federal contracts.

The Executive order simply raises the stakes in a company decision, and will hopefully convince some companies to rethink their decision to hire permanent replacement workers. It is too easy for companies to think that they can help their bottom line by taking advantage of their workers. This only says that there is a price that must be paid.

Sometimes I wish the majority would go ahead and propose a law banning strikes entirely—it would be more honest than what they are trying to do here, again, today. A right to strike is a right to be permanently replaced. Every cut-rate, cutthroat employer knows they can break a union if they are willing to play hardball and ruin the lives of the people who have made their company what it is.

Workers deserve better. Workers aren't disposable assets that can be thrown away when labor disputes arise. When we were considering the striker replacement bill last year, the Senate Committee on Labor and Human Resources heard poignant testimony about the emotional and financial hardships that are caused by the hiring of permanent replacement workers. We heard of workers losing their homes and going without health insurance due to the costs of COBRA coverage, as well as the feelings of uselessness that workers often feel when they are permanently replaced after years of loyal, and efficient service.

The right to strike—which we all know is an action taken as a last resort, for no worker takes the financial

risk of a strike lightly—is fundamental to preserving workers' right to bargain for better wages and better working conditions. And recent studies have shown that the stagnation we have seen in middle-class standards of living is closely correlated with the decline of unions, and the loss of meaningful bargaining power.

At the same time, workers are losing the benefits that unions were able to negotiate. Since 1981, fewer workers have health insurance, pensions, paid vacations, paid rest time, paid holidays, and other benefits. Without the bargaining power of a union, companies provide these benefits only out of the goodness of their hearts. And without the right to strike—a right that is theoretically guaranteed by law, but that, in fact, is totally undermined by permanent replacements—the unions have no bargaining power either. What does it mean to tell workers, "you have the right to strike," when exercising that right means that you can be summarily fired?

This is not about whether a company has to close its doors in the face of a strike. This only concerns the permanent replacement of strikers. Permanent replacements are given special priority in their new jobs—placing new hires above people with seniority and experience. We aren't suggesting that replacement workers can't compete for jobs—they just should not get special rights, over and above those of the workers who have devoted their lives to the company.

As a nation we have a choice—continue down the path of lower wages, lower productivity, and fewer organized workers or to take the option pursued by our major economic competitors, of cooperation, high wages, high skills, and high productivity. If we want to pursue that high skill path, we must do it with an organized work force. We can't do it with the destructive management practices of the past decade such as the threat of hiring replacement workers.

Federal contractors must have stable and productive labor-management relations if they are to produce the best quality goods in a timely and reliable way. The use of permanent replacement workers destroys cooperative and stable labor-management relations. Research has found that strikes involving permanent replacements last seven times longer than strikes that don't involve permanent replacements.

Using permanent replacements means trading experienced, skilled employees for inexperienced employees who labor at the bottom of the learning curve. For Federal contracts, we don't want the industrial equivalents of rookies and minor leaguers making tires for our next Desert Storm.

So, Mr. President, I urge the Senate to oppose this amendment. I think it is a distraction from this important appropriations bill before us. I intend to fight this effort every step of the way,

to return the right to strike to at least some of America's workers.

Under this Executive order, American workers and companies doing business over \$100,000 with the Federal Government can finally be assured that they will not be permanently replaced if they go out on strike. While that represents only 10 percent of all contracts, this order will affect 90 percent of Federal contract dollars.

Opponents of the amendment can nullify this, claim that they are trying to maintain the power of Congress. But Congress already gave the President this power in the Federal Property and Administrative Services Act of 1949. The Senator from Minnesota said every President since President Truman has exercised this authority. President Bush used the same authority to issue two Executive orders concerning labor. Yet, we did not hear our colleagues on the other side of the aisle complaining at that time.

As the Senator from Massachusetts said, the U.S. district court rejected a challenge to President Clinton's Executive order on July 31 of this summer of 1995. Specifically, the court held, first, that President Clinton acted within his procurement authority; second, there is a close nexus between the Executive order and efficient procurement; and, third, that Executive Order 12994 does not conflict with the National Labor Relations Act. In other words, the court rejected all of the major arguments that have been made against the Executive order.

The President has not abused or exceeded his legal authority. He has the power, given by Congress, to deny Federal contracts to employers who use permanent replacements for strikers.

In addition, there is no merit to the argument that he has done an end run around Congress by trying to accomplish what S. 55, the striker replacement bill, tried to do and which did not pass here.

I might point out again for the record, S. 55 had a majority of votes on the Senate floor, enough to pass, to ban the permanent replacement of strikers. We just could not get the 60 votes to break the filibuster. Again, this order does not attempt to change the RLA or the National Labor Relations Act, or outlaw the use of permanent replacements for strikers. It is used narrowly affecting only Federal contracts.

Mr. President, no one has a right to receive a Federal contract. As one contracting party, the Federal Government can insist on conditions, and that is the condition that President Clinton has insisted on, that if you do business of over \$100,000, if it is a contract over that amount, you cannot permanently replace legitimate, legal strikers.

Mr. President, how much time do we have remaining on this side?

The PRESIDING OFFICER. The Senator from Iowa has 1½ minutes remaining.

Mr. HARKIN. I will reserve that minute and a half.

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, it is my hope that we will proceed to take up the pending bill. It is obviously difficult procedurally to complete this bill before the end of the fiscal year, and it is already a matter of public record that arrangements have been made between the executive branch and the congressional leaders to have a continuing resolution, which is to be considered by the House of Representatives today and probably by the Senate today, to cover, on a temporary basis, the matters within this appropriations bill. And it is obvious that even if we could complete the Senate bill before the end of the fiscal year on September 30, we could not finish a conference in time. So the continuing resolution is the way that we will have to resolve these matters for now.

Still, as a matter of protocol and as a matter of form, we in the Senate ought to take up this bill at some point and debate the measures and come to a resolution. With respect to the provision on striker replacement, that is a long, complex subject which has been on the floor of the Senate on many, many occasions.

My own view is that there is a question as to the Executive authority on striker replacement in the context that the Congress has refused to act. But whatever that situation may be, it is my view that it is not appropriate to deal with this matter on an appropriations bill. In the full committee the striker replacement provision was reinstated in the bill to prohibit the use of any Federal funds to implement or enforce the President's Executive order. And it is unlikely that there are sufficient votes to terminate a filibuster. My own sense is that the issue will have to await action on another day. As I say, I think it preferable that such legislative matters not be taken up on an appropriations bill.

It is currently 9:44. We have some substantial time remaining for argument. I invite my colleagues on the Republican side to come to the floor if anyone has any arguments which he or she wishes to make.

How much time remains, Mr. President?

The PRESIDING OFFICER. The Senator from Pennsylvania has 15 minutes 30 seconds remaining.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, as I understand, Senator HARKIN has about 1½ minutes, and then there is the time on the other side. I understand we are going to be voting at 10 in any event. I would like to—if there are other speakers, obviously they could speak—but I would like to talk, perhaps enter into a dialog with the Senator from Iowa just about some of the education provisions of the legislation. But I am more than glad to, if there are other Senators that want to address it—

Mr. SPECTER. I yield to Senator HARKIN and Senator KENNEDY 4 minutes of my time.

Mr. HARKIN. I appreciate the Senator yielding.

I yield to the Senator from Massachusetts.

Mr. KENNEDY. I was just interested in something the Senator from Iowa pointed out during our markup in the Human Resources Committee on the issue of education. In this legislation we are talking about the support of the Federal Government for elementary and secondary education. This past week we talked about higher education. And the Senator, I thought, made a very interesting point about where we were in this country in terms of the deficit versus GNP at the time of the end of World War II when we went ahead and provided education grants to the sons and daughters of working families under the GI bill. And I understood from that discussion and debate that we had that every dollar that was actually invested in education returned eight times—eight times—to the Federal Treasury.

Mr. HARKIN. Yes.

Mr. KENNEDY. Does the Senator find in his own analysis of the investment in the kind of programs that we are talking about here in the education programs in this appropriation bill, that we get not only the dollar return for the investment in our young people and raising the academic achievement and accomplishment, hopefully, in our schools, that it is a sound economic investment as well as an investment in the young people of the country?

Mr. HARKIN. The Senator is absolutely right. You know, we keep hearing we have this big Federal debt, that we have to take care of it. We all want to take care of it and reduce the deficit and get a balanced budget.

Mr. President, the point I made in the committee the other day was that, after World War II we had a similar situation. The national debt was 110 percent of our gross national product—110 percent. Today, it is about 70 percent. Our debt is about 70, 75 percent of our gross national product.

They say we have to reduce our debt. I agree with that. The same situation confronted us in World War II. Did we stick our head in the sand and say no, we have to hunker down? No. We have to invest and invest in education. We have got all the GI's. We did not loan them money. We gave them money. We built student housing all over the country for them to live in. As the Senator from Massachusetts said, they paid this country back to the tune of 8 to 1. And it spurred the greatest economic growth this country has ever seen.

So, you want to get out of debt in this country? We better start investing in education. We are now reaping the harvest of the seeds that we have failed to plant over the last 30 years. When I first came to Congress in the 1970's, the Federal Government's share of elemen-

tary and secondary education was about 12 percent of the total amount of money. At that time there was a proposal that we have a one-third, one-third, one-third sharing of the cost of education. The Federal Government provided one-third, States one-third, and local governments one-third for elementary and secondary education.

The Federal Government, as I said at that time, was about 12 percent of total. You know what it is today, Mr. President? Less than 6 percent. We are going in the wrong direction. It has been going down ever since. We wonder why? We wonder why our schools are not producing better students? Why we are not becoming more competitive in the world markets? Why we are not reducing the deficit? Talk about the dumbing down of America. It is because Congress is not fulfilling its responsibility to invest in the education of this country. The Senator from Massachusetts is absolutely right.

Mr. KENNEDY. Would the Senator agree with me that money is not necessarily the answer to all our education problems, but it is a clear indication about where a nation's priorities are? And that every dollar that we cut back, whether it is reaching out to a Head Start child in trying to help and assist them develop confidence and skills or reaching out to helping teachers and parents at the local level, or providing the income contingency repayments for college loans, that for every dollar we cut from them, that we will be expending more in terms of social services to try to deal with the social problems that are created?

Mr. HARKIN. The Senator is right.

The PRESIDING OFFICER. The Chair informs the Senator from Iowa that the 4 minutes yielded to the Senator has expired.

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. I note the arrival of the Senator from New Hampshire on the floor. I had yielded time earlier, but we do have a speaker. I now yield 5 minutes to my distinguished colleague from New Hampshire.

The PRESIDING OFFICER. The Senator from New Hampshire is recognized.

Mr. GREGG. I thank the Senator for yielding time on this issue before us which arrives here because of the concern of Members from the other side of the aisle about the issue of the President's order on striker replacement. That is why we are having this not necessarily unique, but certainly not all that common, exercise of the vote coming up on the matter to proceed.

The amendment in the bill that has generated this activity is an amendment that I offered in committee and which was adopted in committee that would essentially not allow the President to go forward to enforce his order on striker replacement.

Now, the other side has already discussed at some length this issue. But

let me make two points which I think need to be made.

First, the President's order is clearly in violation, in my humble opinion and I think a lot of other people's opinion in this body, of the separation of powers. It does not lie in the President's prerogative to step forward into this arena and unilaterally take action which is basically a legislative action which is exactly what the President's Executive order has done. Therefore, on that count alone, people should be voting in favor of proceeding because, if you do not, you are basically voting to transfer power from the legislative branch to the executive branch.

More important, however, is the issue of what is the underlying philosophy of this action taken by the President. We have heard a great deal of representation on the other side that this action was taken out of concern for working Americans, that it is an attempt to put working Americans on some sort of level playing field in the area of dealing with management.

Nothing could be less accurate, of course. The fact is, this action was a crass political action taken by an administration which had a debt to a special interest group. The special interest group happened to be organized labor, in this instance, and as one of the first paybacks to organized labor which had given it literally hundreds and hundreds of thousands of dollars, not only to the President's campaign, but to the campaigns of Members of the other party, they immediately took an action which abrogated a law and activity in labor which had been in place since 1938.

I guess it may be it is the other party's position that since 1938 we have had laws unfair to labor and they should have been changed for the last 50 years or so since they have been in place. The fact is, those laws have been in place for the last 50 years. Labor has functioned rather effectively in this Nation as a force for its organized membership, and management has also been able to function under the cloak of the present law as it existed for the last 50-some-odd years. Therefore, it seems to me that the playing field was not unlevel but had reached a rather good equilibrium between management and labor.

What the administration is trying to do in this unilateral act is to create an unlevel playing field, not for the purposes of protecting some beaten down group of individuals, but rather for the purposes of protecting its own interest in running for reelection and getting contributions and support from what happens to be a very specific special interest group in this Nation.

So this is purely special interest group pork-barrel politics is what it amounts to essentially. So if you want to vote against what amounts to labor pork or social pork, as it might be defined here, then you should not be supporting the administration's position

on this, you should be opposing it, because that is what this piece of legislation represents. It is a payoff to a special interest group. Nothing more, nothing less. And it was done in the crassest political way.

Furthermore, it was done in a way which violates very clearly the separation of powers which are so important, I note, to a couple of gentlemen who had been pointed out earlier in the discussion—John Adams and Thomas Jefferson, both of whom I suspect, were they here today, would be rather upset at the idea that the executive branch would be issuing an order which clearly is legislative in nature. It was, after all, they who, along with James Madison, designed the concept of separation of powers in order to have a balance among the executive and the legislative and, obviously, the judicial branches, which has been totally usurped by this action taken by the President.

So this is not some cause which has any right on its side, it is a cause that has special interest on its side and which affronts the separation of powers issue. Therefore, I strongly suggest that we not support the action.

The PRESIDING OFFICER. The time of the Senator from New Hampshire has expired. Who yields time?

Mr. SPECTER. Mr. President, how much time remains on my side?

The PRESIDING OFFICER. The Senator from Pennsylvania has 4½ minutes, and the other side has 1½ minutes.

Mr. KENNEDY. Will the Senator yield time to me?

Mr. HARKIN. Mr. President, I yield my 1½ minutes to the Senator from Massachusetts.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, the provision restricting the President's power on issuing his Executive order has no place on this appropriations bill. It is legislation on an appropriations bill. The proper place is to follow the procedures of the Senate and to legislate in the authorizing committee. This is just another effort to short-change and effectively undermine the legitimate interests of workers as protected by the Executive order.

The legitimacy of the Executive order has been upheld in the courts and follows very careful precedents, which have been outlined.

This provision does not deserve to be on this appropriations bill. It ought to be stripped off the appropriations bill so that the whole issue of the education programs that affect the young people of this country can be fully and adequately debated.

Mr. President, I hope that we will not move toward the consideration of this legislation until we strip this unwarranted, unjustified attack on workers from the appropriations bill.

I yield back the remaining seconds of our time.

Mr. SPECTER. I yield 2 minutes to the distinguished Senator from Oklahoma.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized for 2 minutes.

Mr. INHOFE. Mr. President, I am a little distressed. I understand we are not going to be able to take up some amendments that I believe should be taken up on this bill. I, at least, want to get into the RECORD, in the hopes some of these things can be addressed in conference, my strong feeling about a couple amendments.

The Exon amendment, Coats amendment, and the Smith amendments address the same thing, and that is just a modest and overdue measure to get Government out of the business of promoting and subsidizing abortions. It is my understanding that under section 512, if not enacted, obstetrics and gynecology residents' programs will be required to perform abortions including late-term abortions. Residents with moral or religious objections who wish to opt out of performing abortions should be required to explain why in a way that satisfies stringent and explicit criteria. I am very much concerned about that. We have debated this issue over and over again. However, I am hoping this is something that will be taken up in conference.

The second thing is the amendment to defund Goals 2000, the Education Act. Under this program, Federal intrusiveness reaches a new height. The Goals 2000 creates tighter and more definite links between State, Federal and local levels and makes it easier for the Department of Education to tamper with local schools. The Goals 2000 is the idea that the Federal Government should be involved in creating and certifying standards for education and determining official knowledge.

I think if there is anything that has been very evident during the elections of November, it was a trend to get Government out of things, not in things, to get the Washington influence out of our lives instead of in our lives.

I certainly hope that we will be able to take up some measure at some point, perhaps in conference, to do away with the Goals 2000 program.

The PRESIDING OFFICER. The time of the Senator from Oklahoma has expired.

Mr. SPECTER. How much time remains?

The PRESIDING OFFICER. The Senator from Pennsylvania has 2 minutes remaining.

Mr. SPECTER. Mr. President, just by way of brief comment on the Goals 2000 program, that is a matter which is going to be subject to very substantial debate on the floor of the U.S. Senate. With my lead, we have funded Goals 2000 because of a view that standards and goals are necessary for education.

Way back in 1983, when Terrel Bell was Secretary of Education, there was a report about the crisis of education in America. It may be that we can re-

move further Federal limitations and Federal restraints within the Goals 2000 bill, but I strongly believe that we need to have goals.

The goals which are present are voluntary. The States may put on their own goals if they choose to do so. That is entirely within the discretion of the State. But education is an enormous problem in America. If we really had a generation of educated Americans, it would go to the cure of many of our very basic problems: Problems of teenage pregnancy, problems of welfare, problems of crime, problems of job training. It would all be surmounted if we had adequate education. I believe that Goals 2000, first adopted under a Republican President, President Bush, carried forward in this administration, is very, very important for America. This is not the time to get into extensive debate, but I look forward to an opportunity to discuss this at an appropriate time with my distinguished colleague from Oklahoma.

Mr. President, how much time remains?

The PRESIDING OFFICER (Mr. INHOFE). All time has expired.

Mr. DASCHLE addressed the Chair.

The PRESIDING OFFICER. The minority leader is recognized.

Mr. DASCHLE. Mr. President, I would like to use a few minutes of leader time prior to the vote.

Mr. President, I want to commend Senators SPECTER and HARKIN for the effort they have made to do what they could with this piece of legislation. At the same time, I think everyone needs to be put on notice that this bill will be vetoed.

I believe that there is no other alternative but to veto this legislation. Frankly, while we have given some thought to trying, in as many ways as we could, to improve the legislation, in our view, it is beyond improvement. They have done the best they could. But this problem started when we passed the budget in the first place. This problem started when the allocation to Health and Human Services was provided in the budget resolution and by the Appropriations Committee. As the chairman of the subcommittee, Senator SPECTER, stated, the allocation "is totally insufficient." It cuts \$9 billion from the President's request. So there is no other word to describe this piece of legislation, in my view, than the word "extreme."

Cuts in health, education, job training, and all of the cuts that are provided in this piece of legislation will devastate kids, young people, and destroy the opportunities for families and workers, all in the name of providing a tax cut that we do not need this year. The majority has proposed \$245 billion in tax cuts. In order to finance those tax breaks that benefit our wealthiest citizens, they have proposed the extreme measures in this bill. As I stated, over \$9 billion is cut from the President's request in this legislation in areas that directly affect the strength,

health, vitality and the future of children and families.

It deserves a veto.

In addition to the cuts that are devastating in all the ways that I have already described, the bill before us contains a legislative provision that has no business in this appropriations bill. We have been forced to consider, once more, the striker replacement legislation. This legislation was considered in committee and considered again earlier on the floor that will, without a doubt, provoke extended debate on this bill if it is not removed from the bill.

Overturing the Executive order banning the replacement of striking workers by Federal contractors is wrong. I believe the vast majority of the Senate knows that it is wrong. It does not deserve to be in this bill. It ought to be taken out. And whether or not we ultimately are able to come to any conclusion about health and human services appropriations legislation directly affecting all of the programs for education, drug-free schools, for summer jobs, for the real heart and soul of what we try to do each and every year to give strength and vitality to young kids, will be hung up, in part, because of a minority view that striker replacement deserves to be in this legislation. It is wrong, it does not deserve to be there, and it ought to be taken out.

So, Mr. President, this bill will be vetoed. It will be vetoed because 50,000 children are going to be cut from Head Start. It will be vetoed because 650,000 disadvantaged kids will be denied educational opportunities. It will be vetoed because millions of kids all over this country are going to lose the chance to go to safe and drug-free schools, and are going to lose the opportunity to be educated about the need to avoid drugs. It will be vetoed because we are going to deny 600,000 kids summer jobs. It will be vetoed because 500,000 dislocated workers are going to be abandoned and not given the help they need to find new jobs. It will be vetoed because 96 percent of the funding for substance abuse prevention is wiped out in this bill.

Mr. President, this is an extreme bill. We ought to vote against it. But if, God forbid, it passes, it will be vetoed.

I yield the floor.

The PRESIDING OFFICER. All time has expired.

Mr. GREGG. Mr. President, I ask unanimous consent that the second vote on the motion to proceed to H.R. 2127, originally scheduled to occur at 11 a.m., if necessary, now occur at 11:20 a.m., with time between the end of the 10 a.m. vote and 11:20 a.m. equally divided in the usual form.

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

PRIVILEGE OF THE FLOOR

Mr. KENNEDY. Mr. President, I ask unanimous consent that Danica Petroschius, a legislative fellow in my office, be granted floor privileges during the debate on the Labor-HHS appropriations bill.

Mr. DASCHLE. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The hour of 10 a.m. having arrived, the question is on agreeing to the motion to proceed to H.R. 2127.

The clerk will call the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 54, nays 46, as follows:

[Rollcall Vote No. 471 Leg.]

YEAS—54

Abraham	Frist	McCain
Ashcroft	Gorton	McConnell
Bennett	Gramm	Murkowski
Bond	Grams	Nickles
Brown	Grassley	Packwood
Burns	Gregg	Pressler
Campbell	Hatch	Roth
Chafee	Hatfield	Santorum
Coats	Helms	Shelby
Cochran	Hutchison	Simpson
Cohen	Inhofe	Smith
Coverdell	Jeffords	Snowe
Craig	Kassebaum	Specter
D'Amato	Kempthorne	Stevens
DeWine	Kyl	Thomas
Dole	Lott	Thompson
Domenici	Lugar	Thurmond
Faircloth	Mack	Warner

NAYS—46

Akaka	Feinstein	Lieberman
Baucus	Ford	Mikulski
Biden	Glenn	Moseley-Braun
Bingaman	Graham	Moynihan
Boxer	Harkin	Murray
Bradley	Heflin	Nunn
Breaux	Hollings	Pell
Bryan	Inouye	Pryor
Bumpers	Johnston	Reid
Byrd	Kennedy	Robb
Conrad	Kerrey	Rockefeller
Daschle	Kerry	Sarbanes
Dodd	Kohl	Simon
Dorgan	Lautenberg	Wellstone
Exon	Leahy	
Feingold	Levin	

The PRESIDING OFFICER. On this vote, the yeas are 54, the nays are 46. Under the previous order, 60 Senators not having voted in the affirmative, the motion is rejected.

The Senate will come to order.

Mr. BYRD. Mr. President, may we have order?

The PRESIDING OFFICER. The Senator from West Virginia.

The Senate will come to order.

Who yields time?

Mr. BYRD. Mr. President, will the distinguished Senator from Massachusetts yield me some time?

Mr. KENNEDY. Mr. President, I understand there is an hour to be evenly divided. Am I correct?

The PRESIDING OFFICER. The time until 11:20 will be equally divided.

Mr. KENNEDY. Mr. President, how much time remains?

The PRESIDING OFFICER. Approximately 25 minutes for each side.

Mr. KENNEDY. I yield 15 minutes to the Senator from West Virginia.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, I thank the distinguished Senator. I thank him for his leadership on this issue. Mr.

President, I oppose the provision added to the fiscal year 1996 Departments of Labor, Health and Human Services, and Education and Related Agencies Appropriation Bill in committee that would prevent any funds appropriated in fiscal year 1996 from being used to "implement, administer, or enforce any executive order, or other rule or order, that prohibits Federal contracts with, or requires the debarment of, or imposes other sanction on, a contractor on the basis that such contractor or organizational unit thereof has permanently replaced lawfully striking workers." We must not weaken one of the most fundamental rights of organized labor, the right to strike, by threatening these workers with the possibility of losing their jobs. Mr. President, the right to strike is guaranteed to workers under the National Labor Relations Act and the Railway Labor Act, and is instrumental in preserving an equitable balance in labor-management relations.

On March 8, President Clinton signed Executive Order 12954, which prohibits all Federal contractors, with contracts in excess of \$100,000, from hiring permanent replacement workers in the event of a strike. This Executive Order has already been challenged in court; however, on July 31, 1995, the United States District Court for the District of Columbia upheld the Executive Order. An injunction was also issued by the court staying all enforcement of the Executive Order so that opponents would have an opportunity to appeal before the U.S. Court of Appeals for the District of Columbia Circuit. The President has consistently opposed the use of permanent replacement workers, believing that the practice harms the American workforce and its productivity. By signing this Executive Order, President Clinton is seeking to ensure a stable supply of quality goods and services for the government's programs by protecting opportunities for cooperative and stable labor-management relations, which, he believes, "is a central feature of efficient, economical, and productive procurement."

Congress enacted the National Labor Relations Act [NLRA] in 1935, to establish collective bargaining as the preferred means of resolving labor disputes. The NLRA gives workers the right to join unions, to bargain collectively, and to participate in peaceful concerted activity to further their bargaining goals—all without fear of employer discipline. The economic strike is the ultimate form of such activity. Congress expressly protected the worker's principal economic self-help weapon—the right to strike—because it recognized that this was an important tool of labor in ensuring a level playing field in labor negotiations. I should point out, however, that for workers, exercising the right to strike means giving up wages and benefits, and exhausting any family savings—it is always a last resort.

The NLRA also established unfair labor practices forbidden by the Act. Among other prohibitions, no interference with the formation of a labor union was allowed, and employers could not interfere with employees engaged in organizing or bargaining collectively. After the NLRA was enacted, union membership grew from 3,584,000 in 1935 to 10,201,000 by 1941.

Before the 1930's—some of the Senators may not be able to remember what it was like before the 1930's. Some of them had not yet discovered America. But I remember very well.

Before the 1930's, Federal and State laws favored management, and union activity was discouraged. Efforts by the United Mine Workers [UMW] to expand their membership in West Virginia during the economic surge brought on by World War I resulted in a level of violence seldom seen in the annals of American labor history. In an effort to bring the benefits of unionism to the southern West Virginia region during the postwar years, the UMW mounted a determined effort to organize this region. The coal operators mounted an equally determined effort to keep the union out. Employers in some instances used force to prevent unions from coming into their plants or businesses. In West Virginia, every mine operation had its armed guard—in many instances two or more guards. Mine guards were an institution all along the creeks in the non-union sections of the State. As a rule, they were supplied by the Baldwin-Felts Detective Agency of Roanoke, Virginia and Bluefield, West Virginia. No class of men on Earth were more cordially hated by the miners than were these mine guards. Seemingly hired to keep the peace and guard company property, these guards spent much of their time harassing UMW officials and evicting thousands of union sympathizers from company-owned housing. If a worker became too inquisitive, if he showed too much independence, or complained too much about his condition, he was likely beaten by one of these mine guards.

County sheriffs and their deputies were often in the pay of the coal operators, and the State government itself was clearly in alliance with the employers against the mine strikers. Scores of union men were jailed, and Sid Hatfield and Ed Chambers, two union sympathizers, were shot dead—dead, dead—by Baldwin-Felts detectives on the courthouse steps at Welch, West Virginia, in McDowell County on August 1, 1921. At Blair Mountain, in Logan County, a three-day battle was fought. The Federal Government moved to end the struggle and President Harding issued a proclamation instructing the miners to cease fighting and return home. Military aircraft and a force of 2,150 regular Army troops were sent to West Virginia. Partly as a result of the military's intervention, the UMW's effort to organize that part of the coalfields lost most of its mo-

mentum. The southern West Virginia coal establishment was saved.

This failure of the UMW underscores the long odds organized labor faced at a time when workers' rights to form and join unions had not yet been formally recognized. It also underscores the key role Government involvement played in the efforts of many employers to keep unions out of the workplace prior to the passage of the NLRA in 1935.

In 1938, the Supreme Court ruled in *NLRB versus Mackay Radio and Telegraph Co.* that employers may "permanently replace" striking workers. In effect, this provided a legal way to "fire" these striking workers. Owen Bieber, former President of the United Automobile, Aerospace, and Agricultural Implement Workers of America [UAW] echoes this sentiment as follows: "The permanent replacement of protected strikers is a contradiction in terms. It is pure double talk to say that although workers can't be discharged for striking, the worker can be permanently replaced. This distinction may have some meaning to lawyers, but all the ordinary worker knows is that he or she is not going back to work with the struck employer in the foreseeable future."

The ability of an employer to convert a narrow limited collective bargaining dispute into a prolonged and divisive contest about the future of union representation and the future of the unionized workforce is reminiscent of the bitter disputes that preceded enactment of the NLRA and led to passage of the Act. When striking workers are permanently replaced, the strike turns into a confrontation about retention of jobs and the right to union representation. Strikes should be about working conditions and wages, not about the fundamental right of union representation.

Although the hiring of permanent replacement workers was not common for many years, the practice has escalated in recent years, and its use or threat of use occurs in one out of every three strikes.

More and more, during labor negotiations, union members are fighting for benefits such as health care, pensions, and safety. Wages are not necessarily the big issue. Due to the threat of overseas competition and downsizing, unions are fighting for their benefits, many of which are not provided by companies overseas. It should be noted, however, that our major trading partners, and competitors—Canada, France, Germany, and Japan—all have laws that prohibit the use of permanent replacements. In addition, the newly restored democracies of Eastern Europe prohibit this practice as well. The laws in these countries reflect the importance of collective bargaining in relation to efficient economic performance. Their laws encourage long-term bargaining relationships. In these countries, collective bargaining has been central in building the stable

workforces of skilled long-term employees that are critical to success.

Although the President's Executive Order only applies to Federal contracts in excess of \$100,000, it is important that the United States Senate does not back down by supporting the provision to overturn the President's Executive Order. The Federal Government should set an example not only for all businesses operating in the United States, but for overseas companies as well. We do not want to send a message that we believe it is fair to tip the balance of power in favor of business in collective bargaining. Both sides should have tools to work with in order for bargaining to be effective. An employer would still have the ability to continue operation during a strike by using temporary replacements, by subcontracting or transferring the struck work, or by operating with management personnel.

This provision, which we are debating here today, would return us to the days of widespread practices of unfair and unsafe working conditions. More and more is expected of our workers these days, and they deserve to work in a safe environment with health and retirement benefits and job security. The practice of hiring permanent replacement workers has adversely impacted the lives of many people and destroyed many communities and lifetime friendships. Many who have invested years with a company have lost their jobs due to a legal strike and have been permanently replaced. Savings accounts have been depleted, college funds have been used up, homes have been lost, health benefits no longer existed, and hope for a secure future has been diminished. Advancing age makes it difficult for many longtime workers to find new jobs.

Mr. President, we are talking about real lives here—real people who want to earn an honest living and provide for their families and their futures. These people are the backbone of our great nation, and we cannot afford to toss them aside and replace them with inexperienced, unskilled employees.

Mr. President, I urge my colleagues to vote no once again on the motion.

Mr. President, I yield back whatever time I may not have consumed.

The PRESIDING OFFICER. Who yields time?

Ms. MIKULSKI. Mr. President, I oppose the motion to proceed to consideration of the appropriations bill for the Departments of Labor, Health and Human Services and Education. I do so because I support the President's Executive order to ban the use of permanent striker replacement workers on Federal contracts. I strongly oppose the provision in this bill that prevents enforcement of the Executive order.

Some say that banning of permanent striker replacements will tip the balance toward labor unions. The balance

has already been tipped against workers. In 1970, only 1 percent of strikes involved permanent replacement workers. By 1992, employers were hiring permanent replacements in 25 percent of strikes.

If Congress repeals this order, we tell workers that they are disposable. We are telling working men and women that they can be tossed out onto a scrap heap of economic indifference.

Permanent replacement workers weaken the collective bargaining power of unions and that will bring down U.S. wages and living standards.

Strikes using permanent replacements last seven times longer than strikes that do not use permanent replacements. Strikes involving permanent replacements are more contentious and bitter, and that means that no one wins. Replacing strikers means replacing skilled workers with unskilled workers, experienced workers with inexperienced workers.

Some argue that this expands Presidential authority, I disagree. In 1992, George Bush issued an order that required all unionized Federal contractors to post notices in the workplace informing all employees that they did not have to join the union. President Bush did this even though legislation to include this notification, cosponsored by Congressmen GINGRICH, ARMEY and DELAY, was pending in Congress and was not passed.

Other Presidents have used their Presidential authority to issue Executive orders. In 1941, Franklin Roosevelt issued an Executive order banning racial discrimination by defense contractors. In 1964, Lyndon Johnson ordered an end to age discrimination by Federal contractors, and in 1969, the Nixon administration expanded this order to require affirmative action programs and goals.

President Clinton's Executive order is limited and reasonable. It seeks only to level the playing field for workers in Federal contracts. The Executive order applies only to contractors who try to permanently replace workers. It seeks only to protect workers who are engaged in a legal strike; it does not apply to illegal strikes. In addition, the Secretary of Labor must conduct a case-by-case review before any contract is terminated, and any order to terminate is subject to the review and approval of the contracting agency.

This action is a modest step by the President. It is not an attempt to create new Presidential authority. I support this Executive order to protect collective bargaining, unions, and U.S. wages.

Mr. KOHL. Mr. President, this is the second time the Senate will vote on the President's striker replacement Executive order and, I hope, the second time the Senate affirms the Executive order.

Our Nation's labor laws grant workers the right to strike and ensure that they cannot be fired during the course of a strike. To tell a worker who may have given many years of dedicated

and loyal service that he or she has not been fired but permanently replaced is no consolation to that worker or their family.

In my many years as a businessman, I negotiated numerous labor contracts. I always understood that the workers were negotiating on behalf of themselves and their families. On some occasions, I stood firm. On other occasions, I gave way. On all occasions, I believe, both sides made concessions. We reached an agreement and went back to business. That was the process.

Mr. President, not once during those strikes did it ever occur to me that those workers would lose their jobs for striking. Not once did it occur to me that permanently replacing them was an acceptable practice. And yet today, you can see advertisements for permanent replacement workers even before the expiration of a labor contract.

The key to collective bargaining, Mr. President, is balance and good-faith negotiation.

The President's Executive order does not deny that labor disputes are going to occur. But it does acknowledge that such disputes should be fairly negotiated.

The Executive order is not unprecedented and is justified by helping to improve the quality and efficiency of Government contracts. It does so by encouraging companies that contract with the Federal Government to maintain a fair and stable working environment with their employees. And stable working conditions lead to increased productivity.

Contractors that choose to permanently replace lawfully striking employees during a workplace dispute not only risk damaging labor-management relations. They also risk disrupting the quality and progress of their Federal contract.

In simple terms, it is just bad business practice to hold the club of permanent replacement over the heads of employees. History shows that strikes involving permanent replacements last up to seven times longer than strikes that do not involve permanent replacements. It is common knowledge that such strikes tend to be much more contentious, often changing a limited dispute into a broader, more antagonistic struggle.

Most importantly, it is common sense that permanently replacing strikers means trading experienced, skilled employees for inexperienced ones. Inexperienced replacement workers start at the bottom of the learning curve, a circumstance that can sometimes have grave consequences in productivity and quality. With the President's Executive order, we can avoid such grave consequences under federally funded Government projects.

I urge my colleagues to remove the restriction on this legitimate Presidential Executive order.

Mr. BINGAMAN. Mr. President, we find ourselves today debating once again the use of striker replacements.

This morning, we will conduct two test votes to determine, ultimately, whether or not we will allow the President to enforce Executive Order 12954, which prohibits the Federal Government from contracting with firms using permanent replacements in cases of legal strikes.

Although many of us have addressed this issue in the past, I would like to briefly outline my position on this important issue.

We all know that it is illegal to fire a worker engaged in a legal strike. We also all know that the Supreme Court Mackay Radio decision in 1935 made significant inroads into this protection from dismissal by allowing the hiring of permanent replacements for striking workers. In the last 15 years or so, the increased use of such workers has been one of many factors that have undermined a healthy relationship between workers and employers.

I believe that this country is slowly waking up to the idea that we cannot continue down a path where employers look only at short term profits, and trade in the prospect of our future for expediency today. We are not making the long term investments in capital and human resources that cost now, but will have tremendous payoffs in the future in terms of both profits and wages. We are also not creating the sort of working partnerships between employees and employers that are necessary for our long-term success in the world economy. We simply cannot be competitive in the world if we continue to trade our future for our short term gains.

Yet, the use of permanent replacements, I believe, is too often one more step on that path. Rather than address differences with legitimately bargaining representatives, thus developing partnerships, employers too often simply replace these workers. For that reason, I believe that we must discourage the use of permanent replacements, and I support the President's decision to not do business with firms employing this practice.

The President has found that the use of permanent replacements erodes labor-management relations, and thus adversely affects the cost, quality, and timely availability of goods and services procured by the Federal Government. I am confident that the President is taking an important step to discourage a practice that could have an adverse effect on our Nation's long-term economic prospects.

For these reasons, I will vote "no" on cloture.

Mr. HOLLINGS. Mr. President, the issue before us is not striker replacement, but education. I supported the striker replacement provision in committee and hope it survives.

However, I continue to fight to cool the fever to cut education that has gripped this Congress. I want to cool that fever and break it. Both parties have supported education funding in the past, but now the Republicans

think they have a mandate to cut reading and math assistants for kids in school. They find a mandate to reduce college student aid while tuitions rise faster than inflation. Nothing could be further from the truth.

Specifically, in May, the Senate debated and passed a budget resolution that would cut education by 33 percent over the next 7 years while delivering a tax cut before the next election. During the debate, I, along with Senators HARKIN, KENNEDY, and others offered an alternative that better fits with what the American people want. We proposed to protect the 2 percent of the budget now devoted to education by providing a smaller pre-election tax cut.

Unfortunately, our proposal to protect education was voted down, and today we are considering an appropriations bill that takes the first step to implement the wrongheaded budget plan that passed. Specifically, this bill cuts \$2.1 billion in fiscal year 1996 from the discretionary education budget. It cuts Head Start, college grants, vocational education funds to help high school students move into higher-wage jobs, subsidies targeted largely to elementary schools with disadvantaged children, and school reform funds. It cuts antidrug education in the schools, magnet schools, adult literacy funds, and grants to improve the academic programs of 2- and 4-year colleges that are strapped for funds and that serve many lower-income students seeking to improve their economic independence. In short, it takes a \$2.1 billion step backward while everyone knows we have to press forward in the current economic climate. Because of these cuts, I am opposing the motion to proceed to this bill.

Many of our constituents have felt the sharp edge of economic downsizing. In the government sector, we are cutting the Navy Base in Charleston, and the private sector has done even more to downsize and cut benefits. Traditionally, Americans have relied on a system of public education and college assistance to prepare them and their children to weather such transitions and gain economic independence. We learned after World War II that it pays to help people attend college, and we have learned for more than the past century that free public schools are essential.

Congress now seems to have forgotten these lessons of history, despite continuing evidence that education spending has been critical for economic growth. The Department of Labor estimates that 20 percent of U.S. economic growth since 1963 has stemmed from increased education in our work force. Where would our country be now, relative to Japan and Europe, if its economy were that much smaller? Congress should be fighting to ensure this kind of growth in the future, not fighting to cut education and give families making over \$100,000 per year a tax cut before the next election. After rushing to bail

out Mexico and refusing repeatedly to stop exporting American jobs, we should now work hard to invest in the future, not to give away the public store as a political goodie.

On the individual level, too, voters know that education makes a difference for the future. A recent study of identical twins found that the more educated twin makes 13 percent more on average. Why is this Congress implementing plans to cut back on the long-term individual achievement of the 44 million children in U.S. public schools and the more than 6 million college students receiving student financial aid in order to quickly provide tax cuts to a smaller set of people who already have made it? No political payoff is worth such a plan that will hurt individual achievement and the economic potential of this Nation.

Aside from denying history and current research, this plan flies in the face of the basic facts about school enrollments. It is not rocket science: The number of children is rising. There will be 5 million more children in school in the United States 7 years from now. Thus, public school attendance will rise more than 10 percent, but Congress plans to cut education funding by 33 percent. At the college level, not only are enrollments rising, tuition is going up faster than inflation while we debate \$10 billion in cuts to student aid on reconciliation.

I do not know what else I have to say to prove that the education part of the current budget plan is perverse. We do not need a pollster to tell us that it is not the best effort that this Congress should make for the people. The average voter probably would find it hard to believe that we are really pursuing it. Far from keeping a Contract With America, this bill represents a broken promise to educate our children.

Mr. DODD. Mr. President, I rise today to oppose the motion to proceed to the Labor, Health and Human Services appropriations bill until the striker replacement provision is struck from the bill. If included, this provision will block the implementation of the President's Executive Order on striker replacements. This is a matter of fundamental fairness for working people in this country.

During the course of this century, all Americans—regardless of income level—benefited from our country's economic growth. We grew together, and an expanding economy meant better jobs for everyone. A typical family could work hard and experience an increased living standard, whether that meant buying a home or putting a child through college or taking a simple family vacation.

But in the past two decades, while our Nation's economy has continued to grow, fewer and fewer Americans are sharing in these gains. The vast majority of this growth—97 percent of our real income growth since 1979—has gone to the top fifth of households. In contrast, the fifth of Americans at the

lowest income levels—Americans who previously had been the principal beneficiaries of economic growth—saw their incomes decline by a staggering 17 percent between 1979 and 1993. In short, Mr. President, the rich have gotten richer and poor have gotten poorer.

As 80 percent of our population grapples with economic hardships, they look to each of us to rectify this problem and build a stronger economy that will be shared by all Americans.

President Clinton has demonstrated his commitment to doing something about this problem. He has advocated wage increases and skills training to help ordinary Americans compete and succeed. Unfortunately, our Republican colleagues have blocked these efforts.

In fact our Republican colleagues have denied working Americans a series of advancement opportunities, including summer jobs for youth, student loan, and child care.

What is the Republican solution? Tax breaks. Fifty-two percent of those tax cuts would benefit people earning \$100,000 or more per year. That is not a solution for the single mother with a minimum wage job fighting to keep her children clothed, fed, and safe. That is not a solution for a factory worker struggling to make his mortgage payments. That is not a solution for the vast majority of working Americans. We must do better for them.

The President has done better. His Executive Order directs Government agencies not to contract with firms that permanently replace striking workers. In issuing this Executive Order the President recognized that workers have few powerful tools at their disposal. The right to strike is one of those tools. Permitting employers to permanently replace striking employees throws the labor system out of balance. The Executive Order redresses that imbalance.

The striker replacement provision of the Labor and HHS appropriations bill seeks to obstruct implementation of this vital order. Therefore, I oppose the motion to proceed to the Labor, Health and Human Services bill until the striker replacement provision is struck from the bill. There are several reasons why this provision should be struck.

First, product quality will be jeopardized if Government contractors are permitted to permanently replace striking workers. Firms which permanently replace their workers have, by definition, terrible management-labor relations. This in turn creates a poisonous atmosphere which can't help but damage product quality.

Second, quality and workplace safety will also be threatened. Replacement workers possess fewer skills and less experience than the strikers whose positions they fill. The President has a responsibility to ensure that Federal contractors provide a safe working environment as well as only the highest quality goods and service. This Executive Order will help achieve those goals.

Third, the President's order sets a high standard for cooperative labor-management relations at a time when the increasingly competitive global economy demands it. Management and labor must join in a common quest to produce a good product at a competitive price. Hopes for that kind of cooperation are dashed when management permanently replaces its employees. The President's Executive Order puts the Federal Government on record opposing such tactics.

If our Republican colleagues succeed in blocking the President's Executive Order on permanent replacement workers, they will send a message to ordinary Americans. And that message will be that after years of losing ground on pay and benefits, they could lose their jobs—solely for exercising their fundamental right to strike. They will send a message that the Federal Government rewards with Federal contracts employers who create hostile work environments. Basically, they will send a message which tells working Americans, "tough luck."

That is the wrong message to send. The right to strike has been a basic tenet of American labor policy for six decades. It is illegal to fire an employee for exercising that right. Permanently replacing strikers is a loophole in the law. With the striker replacement provision, we would permit the Federal Government to take advantage of a loophole which allows employers to circumvent the law.

What is the right message to send? That the Federal Government recognizes and respects the law. That we want to help American workers.

Several labor-related Executive Orders made by Presidents Reagan and Bush provide ample precedent for President Clinton's action, and I hope my colleagues will support the President and do something positive for working Americans.

I urge my colleagues to join me in opposition to the motion to proceed to the Labor, Health and Human Services bill until this provision is struck from this bill.

Mr. SIMON addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. SIMON. If there is no demand for time on the Republican side, I yield myself 8 minutes.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. SIMON. Mr. President, let me comment on two aspects. One is the intrusion of the striker replacement into this, and then on the dollars themselves.

What we know from studies, and particularly the Harvard study, is that union workers by and large are more satisfied, and more satisfied workers produce quality work, and that union workers stay at a job longer.

This moves us in the opposite direction. What we need in our society is balance.

I see the distinguished senior Senator from West Virginia. He has seen more

of our history and certainly studied it more than I have. But over the years, since the 1930's, we have tried to have a reasonably good balance. Frankly, when there is a Republican President, the National Labor Relations Board tilts a little bit in the direction of management, and when there is a Democratic President, it tilts a little bit in the direction of labor. But when President Reagan came in—and he did many good things—the balance was lost. And while, for example, at one point Canada and the United States both had about 33 percent of our work force belonging to labor unions, Canada has gone up to 36 percent, and in the United States, we are down to 16 percent. And if you exclude the governmental unions, it is down to 11.8 percent.

It was very interesting for me to pick up the New York Times and read an article by George Shultz, who most recently was Secretary of State under a Republican administration but at one point was Secretary of Labor, and George Shultz said things are getting out of balance; we have an unhealthy small percentage of our work force belonging to labor unions.

Now, part of this balance was self-restraint. Through most of our history, no industry just permanently replaced strikers. And then we have had a few instances of it. Greyhound did it, and we had Bridgestone/Firestone, and that came up on the floor of this body. It is very interesting because Bridgestone/Firestone is a Japanese-owned corporation today. Permanently replacing workers in Japan is illegal, but they did it with their United States entity. The only places where it is legal in industrialized democracies are Great Britain, Hong Kong, Singapore, and the United States of America. In all the other Western European nations and Japan, it is illegal.

I believe the President's Executive order has brought just a trifle amount of balance here. We need more. We need to be doing a lot of things to provide some balance. And what we also have to do as we provide balance is to try to get labor and management working together. I am pleased to say that in the State of Illinois it looks as if Caterpillar is moving toward resolving that problem.

Let me second, Mr. President, talk about the appropriation and where we are. We have under this proposal said—this is compared to the 1995 appropriations, and this is assuming that the Senate bill passes; the House bill is even worse—in the State of Illinois, 42,395 fewer people will be helped.

Let us take West Virginia because West Virginia is like my home territory of southern Illinois—good, fine people but below average education and below average earnings. In West Virginia, 11,413 people. Let us take another example, Mr. President, we forget about here frequently. The citizens of Puerto Rico are all American citizens. They contribute in terms of

Armed Forces and bloodshed more than almost all of our States. In Puerto Rico, 39,924 fewer people are being helped. The average income in Puerto Rico is less than half the average income in Mississippi, the bottom of our 50 States. Puerto Rico gets the short shrift in legislation after legislation because there is no one in the Senate to defend them. We have what we call Commonwealth States. Old fashioned colonialism is what it is. One of these days inevitably Puerto Rico will either become independent or become a State, and that choice I think should be up to the people of Puerto Rico, whatever their decision.

Let us take dollars now. In the State of Illinois, \$84,747,000 less than the 1995 appropriation under this bill; West Virginia, \$21 million less. This is money for education, for people who need help, for summer jobs for youth. Puerto Rico—I mentioned \$84 million for the State of Illinois. Puerto Rico, roughly one-fourth of our population, \$70 million less.

These programs, Mr. President, do good for people. Let me just mention one—title I. It used to be called Chapter 1. This is for the more impoverished areas. People say money alone is not going to solve our problems. There is no question, money alone is not going to solve our problems. But without the resources we are not going to do it.

What has happened to 9-year-old black males since title I has been in effect? An 18-percent increase in math scores, a 25-percent increase in verbal scores. Those are good kinds of things.

Head Start. I do not know anyone who believes Head Start does not help these young people. I will never forget visiting the Head Start Program in an impoverished area in Rock Island, IL. Almost every Head Start Program, every one I know of, has a waiting list. We are not providing enough help. One group of young people comes in Monday morning; Tuesday morning another group; Wednesday morning a third group, and so forth. I asked the woman in charge, what would it mean in the lives of these young people if they could be in here every day instead of 1 day a week? She smiled and she said, "You could not believe the difference it would make in their future."

Oh, we save money when we do not provide help to them, like you save money when you build a house and you do not put a roof on it. But you do not save money in the long run. We have to invest in our people.

When I was in the fourth or fifth grade, something like that, I read in my geography book that the United States was wealthy because of its natural resources, our oil and coal and all these other things. And then all of a sudden about 15 years ago, I got to thinking about it. The countries that were moving ahead relative to how the United States was moving ahead, much more rapidly than we were—Sweden, Japan, Taiwan, South Korea—why were they moving ahead? They were moving

ahead because they were investing in their people.

We need to invest in the people of West Virginia. We need to invest in the people of the central city of Chicago. We need to invest in the people of southern Illinois—good, hard, coal mining people, farmers, and others who are struggling on topsoil much of which, as in West Virginia, is not great.

We need to invest in our people. When we do, it pays off. The GI bill after World War II—Senator BYRD and I are old enough to remember that—we thought of it as a gift to veterans. It was an investment in our own prosperity. It was a huge, huge plus for this Nation.

We have to do that again. I hope one of these days we will have the vision and the courage. What we are going through now, because of what we have done—and I am for the constitutional amendment; the Senator from West Virginia and I differ strongly on that—what we are trying to do legislatively is like a New Year's resolution. We are having a New Year's resolution where we are going to balance the budget. But you know what we want to do with this? It is like a diet, a New Year's resolution and a diet. We are going to start off with a great big dessert, a \$255 billion tax cut. That is what we are doing. It is ridiculous. We ought to be using that money to invest in our people.

I hope this appropriation is rejected, Mr. President.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. How much time remains?

The PRESIDING OFFICER. The Senator from Massachusetts has 5 minutes remaining on his side; 25 minutes for the other side.

Mr. KENNEDY. Mr. President, the silence on the other side is really deafening in response to the points that have been raised in the early part of this discussion and debate as well as during this time.

Mr. President, I yield myself just 4 minutes.

Mr. President, I think the case has been made about the authority of the President to make this Executive order. The ink on the Executive order was not even dry before it was challenged by our Republican friends, in spite of the historic precedents establishing the power and the authority and the constitutional right of the President to act in this regard.

The Executive order is well founded and well justified, when we look at what is being sought in terms of having an orderly procurement program for the Federal Government: to ensure that there will be quality products manufactured, that they are going to be purchased on time, and recognizing the realities of the striker replacement issue.

Mr. President, the issue concerning the cuts that are in the appropriations bill in terms of education has been debated and discussed. I want to just take a few moments here to put into perspective this whole issue about undermining the opportunities for workers to be able to gain a decent, livable wage in the context of other actions that are being forced on the working families of this country by the majority Members of this body.

We saw the first efforts on March 15 of this year when the attempt was made to undo what the President has done to protect workers' historic and legitimate right to strike and to prevent their permanently replacement by Federal contractors.

We have to look at the mosaic that is being created, not only back in March, but during the period of the summer. What we have seen is a basic assault on working families. We have seen the assault on the Davis-Bacon program. Why do Republicans want to attack the Davis-Bacon program? The average income of the Davis-Bacon worker is \$26,000 a year—\$26,000 a year for hard work. Why are we denying those men and women who are in the second or third most dangerous occupation, outside of mining and perhaps logging, that work on Federal building projects, the third most dangerous work, the opportunity to be able to gain a decent wage of \$26,000?

Next came their opposition to increasing the minimum wage. Republicans and Democrats alike have fought for increases in the past. This is not a partisan issue. President Bush signed the last minimum wage increase of 90 cents. Nonetheless, we have resistance to help men and women prepared to work 40 hours a week 52 weeks a year to be able to have a livable wage so they are not in poverty. We heard a great deal about the importance of work in the welfare debate. Here are men and women who want to be off welfare, want to work, being denied the opportunity to have a livable wage. That is No. 2.

No. 3. In the budget, the cutting back of the earned-income tax credit. Who does that affect? Needy workers below \$26,000, to help and assist them when they saw the increase in the cost of Social Security and expanded family obligations so that they could be able to provide for their children—a worthwhile program. And yet we find our Republican friends trying to squeeze that back, effectively squeeze it so that working families with less than \$26,000 are going to have to pay more in taxes. A tax increase on the working poor.

And what do we have yesterday over in the House? We have the Republican proposal to open up all the pensions again, \$40 billion of retirees' pension money that will be available to corporate America. We saw what happened in the 1980's when we had the plundering of the pensions. Those pensions belong to workers, not to corporate raiders. Those pensions have been paid in

and paid in as a result of sacrificing increases in wages and health benefits. And now under the Republican proposal, we would permit the corporate raiders to reach in there for \$40 billion to increase their salaries, their bonuses and their stock options.

This is a continuing effort of assault on the working families of America. And beyond that, Mr. President, is the slashing of the various training programs for workers that have been displaced as a result of defense downsizing, of the mergers that have taken place. We saw just the other day the merging between the Chemical Bank and the Chase Bank, and Wall Street go euphoric in terms of that merger. Twelve thousand Americans are laid off. Who is going to speak for them?

I yield myself the last minute.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. KENNEDY. I thought I yielded myself 4 minutes.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. SPECTER. Senator KENNEDY may have 1 minute of my time.

Mr. KENNEDY. I thank the Senator.

Who is going to speak for those kids? You cannot pick up a newspaper today without finding massive layoffs, not just of needy blue collar workers, but also the white collar workers and men and women who have worked in these companies and corporations for years. We have to speak for them.

Mr. President, this is just one additional part of that puzzle. This appropriations bill should be stripped of the provisions that are basically an attack and assault on the President's statutory and constitutional rights that have been upheld in the Federal courts. And then we should get about the debate on the substance of the appropriations issue.

Mr. President, I thank my colleague from Pennsylvania, and I yield the floor.

Mr. SPECTER. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator from Pennsylvania has 24 minutes remaining.

Mr. SPECTER. Mr. President, I ask my Republican colleagues who may be listening to come to the floor if they wish to speak in support of the motion to proceed.

The distinguished Senator from Wisconsin has asked for 5 minutes. I yield him 5 minutes at this time, with the request to my colleagues on the Republican side to come to the floor if they wish to speak.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD. Thank you, Mr. President. And I thank the Senator from Pennsylvania very much.

Mr. President, I voted "no" on the motion to proceed to consideration of the Labor-HHS appropriations.

A number of problems in this measure have been highlighted in the debate, but I would like to focus on one

particular provision, the attempt to override the President's Executive order banning the use of permanent replacements for striking workers employed by Federal contractors.

We had a long debate about this a few months ago, and I had a chance the speak at length. So I will be brief today. But this is an issue that I feel very strongly about, and I fully support President Clinton's efforts in this area to halt the erosion of workers' rights.

I had a chance to work on this issue for many years when I was in the Wisconsin State Senate and tried to pass a Wisconsin law on this issue. But throughout the process it was very clear that what had happened in the early 1980's with the PATCO strike led to an avalanche, really, of the use of permanent replacement workers across this country in a way that had never happened before. It has had serious consequences for working people throughout Wisconsin and across the country.

Mr. President, earlier this month, just a few weeks ago, I had the painful experience of meeting with workers who had just gone on strike against a large employer in a rural Wisconsin community. These workers came to one of the listening sessions or town meetings that I hold every year in each of Wisconsin's 72 counties.

I would like to read, to highlight this issue, from a statement of James Newell, the principal officer for the Teamsters Union, on this issue. I can think of no more eloquent testimonial than the words of Mr. Newell that day, in a small townhall in Wisconsin, just a couple of weeks ago.

He said:

Sir, you have entered into a community today that has been infected with a disease that has become much too prevalent in American society over the past few years. Just a few blocks from here, there are more than 100 hard-working men and women engaged in a struggle with this community's largest industrial employer. The flashpoint of this firestorm was not the traditional economic issues of higher wages and benefits—although Lord knows they are desperately needed here and will be at issue before this battle is over.

He continued to say:

This controversy was ignited by issues which transcend price tags; the issues of fairness, safety, job security, and basic human rights to self-respect and dignity on the workshop floor.

Mr. President, Mr. Newell continued by describing what is happening all too often across this country in the use of strike breakers.

Three (3) years ago, this community faced a major loss of employment at this facility brought on by its intended closure by a national conglomerate which owned and operated it at that time. The work force gave tremendous concessions, both in economics as well as job security provisions, to allow present ownership to acquire and build the business and to preserve those jobs in the Owen community. Now, after we have done our part and contributed to the new company's success, we are told that some of our

basic requests for a return of rights previously given up is somehow un-American in light of global competition and the employer's interest in maximizing profits.

Mr. Newell described in his statement about the events that followed. He testified that since the confrontation began,

We have not been greeted by any desire from this employer to return to the bargaining table and work out these disputes, but rather by the employer's unilateral cancellation of two (2) scheduled bargaining sessions this past week and the veiled threat of canceling a third (3rd) session scheduled for the coming weeks. We have seen our lost wages being utilized to pay for an unnecessary insulting security guard force. We have witnessed safety shortcuts being implemented at the potential peril of those few who are still working in the plant. And, perhaps most outrageous of all, we have witnessed this employer stoop to the level of enticing high school students—

High school students—

to cross the picket line and perform the work. We wonder what kind of society we have evolved into when schoolchildren can become pawns to break labor disputes.

Mr. President, Mr. Newell concluded with an observation about what is happening across America today. He said:

What is happening in this community today is a microcosm of what has been slowly eating away at the American fabric for years . . . Progress and efficiency cannot be had at the expense of basic human dignity.

Over the past few days, the workers became aware that plans were being made by the company to bring on permanent replacement workers. Those hired during the strike are going to be considered permanent. The strike ended. There is little doubt that the threat of hiring permanent replacement workers shifts the balance at the bargaining table. That is an unfair leverage that was imposed upon this community. That is not what bargaining is supposed to be about. When one party is given a tool like this, there is little realistic hope that a fair result will ensue.

It may mean higher profits today, but in the long run, it is a bad result for a community, for America's work force and for our entire country. America's workers, Mr. President, should not be treated like disposable goods.

I yield the floor.

Mr. SPECTER. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator from Pennsylvania has 10 minutes 39 seconds.

Mr. SPECTER. How much time does the Senator need?

Mr. NICKLES. About 5 minutes.

Mr. SPECTER. I yield 5 minutes to the Senator from Oklahoma.

Mr. NICKLES. I thank my friend and colleague from Pennsylvania for yielding the time.

Mr. President, I urge our colleagues to vote to proceed to this appropriations bill. I cannot recall—and it may be that we have done it—somebody objecting to a motion to proceed to an appropriations bill. Maybe a couple

years ago in dealing with an Interior bill, which I was actually a manager of, that had on it an issue on grazing, and there was some legislation on that bill. Maybe that happened and we wrestled with it for a couple of days. But I do not recall anyone objecting to proceeding to the bill, though.

I have heard a couple colleagues on the other side of the aisle saying they had problems with one of the provisions in the bill relating to prohibiting President Clinton's Executive order dealing with striker replacements. If they do not like that language, if we proceed to the bill, they have the opportunity to amend it and strike that language if they have the votes. That is fine.

That is the way we usually handle appropriations bills. There are some things in this appropriations bill I do not agree with and on which I plan on having an amendment. Not everything done in committee I agree with. So I understand that some people on that side of the aisle are not happy with the bill or want to see some changes, some amendments. Other people on this side, would like to see some changes. Maybe we can come to an agreement on the number of amendments and hopefully pass this bill. We happen to be running out of time. We are supposed to have all appropriations bills done by the end of this month. We lack two. This is one of them.

Let us find out where the votes are concerning this one provision dealing with the President's Executive order. The House put in language that denies funding to implement the President's Executive order, which prohibits companies from hiring permanent replacement workers during strikes. The Senate kept that language in. I happen to agree with that language. Somebody might say, why is that language necessary? Well, the President, by Executive order, is trying to pass legislation. I really disagree with that. I disagree with the substance of the legislation, and I also disagree with Executive orders that try to legislate.

In this case, there was legislation introduced that was very high on President Clinton's priority list. The Democrats controlled Congress for the first 2 years of his administration. They introduced legislation that would state basically that companies could not hire permanent replacement workers during a strike. They did not have the votes. They were not able to pass that legislation.

So after the change in the control of Congress, President Clinton said, well, I will bypass Congress and do it by Executive order. Basically, it states that if any company or any branch of any company does any contracting with the Federal Government, therefore, they will be denied access to Government contracts if they hire permanent replacement workers during a strike. That is clearly legislation.

Again, I hope that our colleagues, Democrats and Republicans alike, will

take exception to the executive branch if they are legislating. The Constitution, in article I, says Congress shall pass "all" laws. It does not say "some" laws; it says "all" laws. It does not say that if the President cannot get his legislative program through Congress, he can do it by Executive order. That is exactly what this President is trying to do.

He is trying to legislate. I hope and think that people from the legislative branch would take exception to that—even if they agree or disagree with the substance of his Executive order or his legislation that he is trying to enact through Executive order.

So, again, I understand and respect that we have differences of views on this legislation. That is fine. I might say it is not totally partisan on this one issue, but we should vote on it. We should legislate on it. If colleagues wanted to pass a prohibition, they should introduce legislation and let Congress work its will. We have the right to pass this prohibition. For Members to say we are not going to take up the Labor-HHS appropriations bill because it has an amendment that we do not like—this bill has total funding, I think, of \$263 billion in budget authority for the Department of Labor, Health and Human Services. That is a big bill. To say we want to totally deny taking up this bill because we disagree with one funding prohibition, I think, is not very mature. I hope that we would not do it.

Again, I cannot remember Congress doing it. In my opinion, also, it is not a responsible way to legislate. Congress should legislate and we should enact our will. I should have a chance to offer my amendments on some things that I disagree with and find out where the votes are. Maybe I will win, and maybe I will lose. I doubt, when you have a bill this large, that everybody is going to agree with everything. So we should work our will. We should have a chance to amend this bill, and we should finish this and all appropriations bills by the end of this month. I think we are being somewhat irresponsible if we do not.

I urge my colleagues on the Democratic side, all of whom voted against the motion to proceed, to allow us to proceed to this bill and have Congress work its will and hopefully pass this and the Commerce, State, Justice bill before we adjourn this month.

Mr. SPECTER. Mr. President, how much time remains?

The PRESIDING OFFICER. There are 4 minutes 5 seconds remaining.

Mr. SPECTER. Mr. President, it would be my hope that we would proceed to consider this bill. It is, obviously, a party line matter at this point.

As I had said earlier, when the bill came out of the subcommittee, we struck all of the legislative provisions, because in my view, and the view of the members of the subcommittee, we ought not to take up legislation on the appropriations bill. That was the pol-

icy of the Appropriations Committee as a general rule on all matters endorsed by our distinguished chairman, Senator HATFIELD. But it is my hope that we will take up the bill.

As a practical matter, it is difficult to proceed to finish this bill before the end of the fiscal year. Certainly, we could not have a conference even if we could finish it on the Senate floor, if this subject is going to be comprehended within a continuing resolution.

I invite my colleagues on the Republican side, who wish to come to the floor to speak in favor of the motion, to do so.

How much time remains?

The PRESIDING OFFICER. The Senator from Pennsylvania has 3 minutes 30 seconds.

Mr. KENNEDY. May I have a minute?

Mr. SPECTER. I yield a minute to my distinguished colleague from Massachusetts.

Mr. KENNEDY. Mr. President, I think the membership understands what is at stake. As the Senator from Pennsylvania pointed out, there was a stripping away of all the other add-ons onto the appropriations, with the exception of one. There was a refusal to strip that aside. That particular amendment was targeted on the constitutional authority of the President of the United States. And that issue had been resolved in the courts of this country in support of the President of the United States.

So it does seem to me that that issue should be stripped off before we get back into the debate on the other priorities. I thank the Senator for yielding. I join with others in saying that I think Senator SPECTER and Senator HARKIN did as well as could possibly be hoped for in terms of trying to take scarce resources and focus them on education. But I do think that it would be appropriate to have a reexamination of where we are as a nation in the course of the consideration of the appropriations to underscore the fact that this provides billions of dollars less in terms of investing in young people in this country at a time when their needs are as great as they are.

I thank the Senator for the opportunity. I hope that the motion to proceed will not be accepted and that the "no" vote will carry.

Mr. SPECTER. Mr. President, I suggest one correction to what the Senator from Massachusetts said, and that is, that all of the legislative proposals were stripped by the subcommittee. When they got to full committee there was a vote 14-12 to reinsert this with respect to the striker replacement.

It was my hope we would bring the bill to the floor solely in the context of an appropriations bill.

I thank the Senator from Massachusetts for his statements about doing the best we could. It is my hope this bill will yet come up. There are many issues that need to be debated and voted on, a lot of differing views in this body.

There are some who plan to offer amendments to try to increase funding for job training—or for education—which I certainly would like to see, if there is any way we could do it.

At some point these matters will come to the floor, if not on this motion to proceed. It is my hope we will support the motion to proceed and go ahead with this very important bill.

The PRESIDING OFFICER. The Senator has 45 seconds remaining.

Mr. SPECTER. I yield the balance of the time to Senator NICKLES.

Mr. NICKLES. Mr. President, I want to clarify one thing that my colleague from Massachusetts just mentioned; he said the courts have upheld the President in this matter.

I might mention that the district court upheld the ruling but it is pending still before the court of appeals, and recognizing this case was unprecedented, the district court judge suspended implementation of the Executive order until the court of appeals acts. The courts have not made a final decision.

Many think this is clearly legislation by Executive order, and the President exceeded that. The President has taken several actions by Executive order. This is one. It is not the only one that is really legislation that many feel very strongly about.

We should vote and we cannot vote unless we move to proceed to the Labor-HHS bill.

The PRESIDING OFFICER. Under the previous order, the hour of 11:20 having arrived, the Senate will now vote on a motion to proceed on H.R. 2127.

The clerk will call the roll.

The assistant legislative clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 54, nays 46, as follows:

[Rollcall Vote No. 472 Leg.]

YEAS—54

Abraham	Frist	McCain
Ashcroft	Gorton	McConnell
Bennett	Gramm	Murkowski
Bond	Grams	Nickles
Brown	Grassley	Packwood
Burns	Gregg	Pressler
Campbell	Hatch	Roth
Chafee	Hatfield	Santorum
Coats	Helms	Shelby
Cochran	Hutchison	Simpson
Cohen	Inhofe	Smith
Coverdell	Jeffords	Snowe
Craig	Kassebaum	Specter
D'Amato	Kempthorne	Stevens
DeWine	Kyl	Thomas
Dole	Lott	Thompson
Domenici	Lugar	Thurmond
Faircloth	Mack	Warner

NAYS—46

Akaka	Conrad	Harkin
Baucus	Daschle	Heflin
Biden	Dodd	Hollings
Bingaman	Dorgan	Inouye
Boxer	Exon	Johnston
Bradley	Feingold	Kennedy
Breaux	Feinstein	Kerrey
Bryan	Ford	Kerry
Bumpers	Glenn	Kohl
Byrd	Graham	Lautenberg

Leahy	Murray	Rockefeller
Levin	Nunn	Sarbanes
Lieberman	Pell	Simon
Mikulski	Pryor	Wellstone
Moseley-Braun	Reid	
Moynihan	Robb	

The PRESIDING OFFICER. On this vote, the yeas are 54, and the nays are 46. Pursuant to the previous order, 60 Senators not having voted in the affirmative, the motion is rejected.

Mr. KENNEDY. Mr. President, I move to reconsider the vote by which the motion was rejected.

Mr. BREAUX. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

EXECUTIVE SESSION

Mr. LOTT. Mr. President, on behalf of the leader, I ask unanimous consent that the Senate now proceed to executive session to consider the nomination of James Dennis to be U.S. Circuit Judge.

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

NOMINATION OF JAMES L. DENNIS, OF LOUISIANA, TO BE UNITED STATES CIRCUIT JUDGE FOR THE FIFTH CIRCUIT

The assistant legislative clerk read the nomination of James L. Dennis, of Louisiana, to be U.S. Circuit Judge for the Fifth Circuit.

Mr. COCHRAN addressed the Chair.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. Mr. President, I move to recommit the nomination to the Judiciary Committee.

Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Parliamentary inquiry: Does that call for immediate action, or is that a debatable motion?

The PRESIDING OFFICER. The motion to recommit is a debatable motion.

Mr. COCHRAN. Mr. President, I am prepared to describe to the Senate the reasons for my motion, and to give other Senators an opportunity to discuss this. We had undertaken to work out an agreement on the basis of time constraints allocating time for one side and the other because some did not want to set a precedent for doing the time agreement on a motion to recommit on the Executive Calendar. We have not reached that agreement in any formal way.

But, for the information of Senators, it is my expectation that there will be

debate on this motion for at least 1 hour on this side in support of the motion to recommit. I expect that there will be a corresponding amount of time, or at least certainly the availability of that kind of time, on the other side. Then there would be a request for the yeas and nays on the motion to recommit the nomination. We expect to be able to get a record vote on that motion.

Mr. BIDEN. Mr. President, will the Senator yield?

Mr. COCHRAN. I am happy to yield to the Senator for a question.

Mr. BIDEN. Mr. President, I am the one who was reluctant to enter into a time agreement and/or a formal agreement on the motion to recommit. It is fully within the right of the Senator from Mississippi to do that. The reason I did not wish to do that is that it sets a precedent. As long as I have been here, I do not recall us moving to recommit a judicial nominee unanimously reported out of the Judiciary Committee.

The second point that I make to my friend is that I have no intention of doing anything to delay the vote on this motion to recommit.

I would like at the appropriate moment to explain why I believe Justice Dennis is qualified and should be confirmed and why there is no need to recommit. My colleagues from Louisiana, who have a genuine interest in this nomination, are both here, and I would look to them to speak to the qualifications of Justice Dennis and why a recommittal motion would be in effect a very bad precedent.

I wish to make it clear to my friend from Mississippi that the Senator from Delaware does not have any other agenda. I do not have any intention of slowing up a vote on this. This is a slightly different procedure from the general tradition of the Senate that when a nominee comes up from a committee the Senate debates and votes on the nominee. However, I will not object to this motion to recommit Justice Dennis because it seems to me a version of what the North in the War Between the States had hoped for for many years, that is, that two States in the heart of Dixie would fight over an issue that the rest of us think is not worthy of a fight.

Mr. COCHRAN addressed the Chair.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. My response to the distinguished Senator from Delaware is I have no problem with his describing the committee's action. I know the chairman of the committee would probably want to do that at some point in this discussion.

Let me just say, if I can, in support of the motion that this is not a fight between two States. This is a question that is being presented to the Senate today under this motion to recommit on the basis of newly discovered information about the fitness of this judge to serve on the fifth circuit court of ap-

peals. The motion to recommit is to give the Judiciary Committee an opportunity to review the facts, the evidence and the investigation that has just recently been concluded by the staff of the Senate Judiciary Committee, at the request of the chairman of that committee.

I have been briefed by the staff on the findings of that investigation, and I was advised at the time I was briefed that no other Senator had requested a briefing, no member of the committee had been briefed, other than the chairman had been given information from the investigators. I am convinced on the basis of what I heard that the Judiciary Committee should reconvene and reconsider the nomination.

That is the reason this motion is being made. If this were just a debate on the merits of the nominee or the fitness of this nominee on the basis of the record as already made by the Judiciary Committee—whether or not one State was being overly represented on the Court—these are all facts that we would debate at that time, and it may be a subject, a proper subject, for discussion at a later time. But this motion is directed to the fact that after the committee reported the nomination, information became available which brought into question the fitness of this judge to serve and whether or not he should have disqualified himself from participating in a case before the Louisiana Supreme Court and related matters.

That is the point we will address this morning. We hope the Senate will agree with us that this is clearly a situation where the committee ought to reconsider the nomination.

Mr. BIDEN. If the Senator will yield without losing his right to the floor—

Mr. COCHRAN. I will be happy to yield for a question.

Mr. BIDEN. The way the Judiciary Committee has operated for the roughly 20 years, I guess, that I have been on it is that the investigative staffs of the majority and minority work together and share all information. I wish to inform my friend from Mississippi that in addition to the Senator from Mississippi and the chairman of the committee, Senator HATCH, the Senator from Delaware has also been briefed on all of the investigative matters including the one to which the Senator refers.

I will be prepared and am ready to speak to that, but I will yield back. I do not have the floor. I thank my friend for his time, but assure him that I am aware the committee has been briefed. I see absolutely no need to refer this back to the committee, but I will speak to that in response to my friend's arguments.

Mr. COCHRAN. Mr. President, I thank the distinguished Senator for his comments.

Let me just say for the purpose of putting this in some historical context that Judge James Dennis is a member of the Louisiana State Supreme Court.