about that ad is similar to the one that I have just represented?

Mr. ROCKEFELLER addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROCKEFELLER. In responding to the Senator from Massachusetts, it is really a matter, I think, of fundamental shock as well as distortion of truth that these ads are portraying. What we have been doing in the course of this particular year 1995 is looking at Medicare and Medicaid all by themselves without any sort of thought about comprehensive health care reform at all, which means it is like you are trying to take a gigantic system and just reorganize one part of it.

What Mrs. Clinton was talking about a year or more ago in this television ad, she was in the process of leading an effort, along with the President and the rest of us, which did not succeed, to try to reform health care as a whole and to really give a chance for Medicare and Medicaid to take their proper role within a reformed total health care system in the private sector.

So to the Senator from Massachusetts, I would say he is absolutely right. All of those cuts she was talking about were being plowed right back into Medicare, into senior citizens in the form of prescription drugs and long-term care. Because there were tremendous efforts being made to control costs in the private sector, there was not any of the cost-shifting involved that we are seeing in the debate this year because it was comprehensive health care, cost control within the private sector, plus the fact that you were not going to have, back then, the situation of doctors refusing to see patients, Medicare patients because perhaps the fee would not be adequate, or you certainly would not have seniors being forced into HMO's and other things. So the choosing of the doctor, the fact that the money was all being put back into Medicare really makes the perpetrators of this ad a rather shameful lot, and it is a tremendous disservice to Mrs. Clinton, who did everything that a human could possibly do to try to make health care better for all Americans.

Mr. KENNEDY. Mr. President, I thank the Senator, and I particularly wish to thank my friends and colleagues, the floor managers, Senator LUGAR and Senator PELL. This matter which is before the Senate now is extremely important, and I am grateful to them for their courtesy in letting us address the Senate briefly on this matter.

I thank the Chair.

Mr. BINGAMAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. I ask unanimous consent that I be allowed to speak as if in morning business for up to 6 minutes.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

WORKABLE GOVERNMENT

Mr. BINGAMAN. Mr. President, we are now in the seventh day of the second Government shutdown of the year. This is the longest partial shutdown of our Government in the almost 207 years of our Nation's history.

The commonly held view is that the shutdown results from differences in policy between the Republican-controlled Congress and the President. The Republicans want their economic projections used to calculate the deficit reduction needed to get to a balanced budget. The President wants to ensure that reasonable funding levels are maintained for Medicare, Medicaid, education, environmental enforcement, and so on.

This commonly held view is wrong.

In fact, this crisis in government is not caused by differences between the President and Congress on policy matters. It is caused by the new and radical view that Republican congressional leaders have taken about Congress' constitutional duties and prerogatives.

For the first time in our Nation's history, the congressional the government and keep it closed in order to extort concessions from the President on policy issues. House Majority Leader RICHARD K. ARMEY, this week, announced that the House will not send President Clinton a bill reopening the full Government—even temporarily—until there is ''a bill for him to sign'' that balances the budget in 7 years.

This decision by Congress to shut down the Government until it gets its way is new. No previous Congress has interpreted the Constitution as granting it that right. In a recent interview with the Wall Street Journal, Mr. GINGRICH referred to this newfound right as ''the key strategic decision made on election night a year ago.'' Mr. GINGRICH stated;

> If you are going to operate with his [the President's] veto being the ultimate trump, you have to operate within a very narrow range of change. * * * You had to find a trump to match his trump. And the right not to pass money bills is the only trump that is equally strong.

So, for the first time in our national life we have congressional leadership that believes it has the constitutional right to close the Government and keep it closed until Congress prevails. The immediate disagreement is about a whole tangle of budgetary issues, but if Congress has the right to close the Government in this disagreement, presumably it has that right whenever the President has the temerity to stand his ground on any issue. If the closing of Government is an inherent right of the Congress, then all powers of the President are necessarily subordinated.

Those who wrote our Constitution never intended that the Congress have any such right as is now claimed. They set out a system of checks and balances among the branches of government and provided a method of resolving differences including a right of the President to veto legislation and the right of Congress to override that veto.

But underlying all these checks and balances between the branches of government, those who wrote the Constitution assumed an obligation and desire on the part of all to maintain what Justice Jackson referred to as a ''workable government.'' (343 U.S. 579, 635 (1952)).

When our Founders embarked upon the task of bringing to life the constitutional system devised in Philadelphia in 1787 and approved by the State ratifying conventions, it was the legislative branch of our new Government which they called on to commence proceedings under the Constitution.

Pursuant to that call, the Congress met in New York in 1789, organized itself, and provided for the counting of the Presidential electoral votes and the inauguration of the President. The Congress then passed legislation to establish the great departments of the executive branch, to provide for the organization of the judicial branch, and to furnish appropriations to enable all the branches of our new National Government to perform their constitutional functions.

It would be, Mr. President, frankly unimaginable to our Nation's Founders that our branch, the first branch of government, whose duty it was to bring to life the Framer's plan, would ever think that it was within its purview to disable that plan by refusing to perform the Congress' primary constitutional responsibilities.

But the Republican leaders of Congress today are doing just that—refusing to perform the Congress' primary constitutional responsibilities. They believe they have ''the right not to pass money bills'' and can use that so-called right as the ''ultimate trump,'' as Mr. GINGRICH puts it, in their disagreements with the President.

Mere policy differences, no matter how important, are not at the core of the present Government crisis. There have been many times in our history when policy differences between Congress and the President were great and were strongly held. The real cause of this crisis is the inflated and radical view taken by Republican congressional leaders concerning the rights of the Congress under the Constitution. What they claim as a right is instead an unprecedented abuse of power. Until a majority of each House of Congress recognizes this, the ''workable government'' which the Founding Fathers contemplated will remain at risk.

Thank you Mr. President, and I yield the floor.

Mrs. MURRAY addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

Mrs. MURRAY. Thank you, Mr. President.

FUNDING FOR MEDICAID

Mrs. MURRAY. Mr. President, I hold in my hand today a letter to President Clinton that is signed by all 46 members of the Democratic Caucus. This

letter urges him to hold firm to our commitment to basic health care for children, pregnant women, the elderly, and the disabled in this country. This letter supports a per capita cap approach to finding savings in the Medicaid Program.

Mr. President, I ask unanimous consent to have that letter printed in the RECORD at the end of my statement.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

(See exhibit 1)

Mrs. MURRAY. Mr. President, this letter shows unity and it demonstrates support for President Clinton in his negotiations on this vital matter. As you heard the eloquent Senator from West Virginia describe yesterday, sometimes we have to look beyond partisanship and do what needs doing as Americans. As you heard our respected colleague say, we need to look beyond partisanship, toward compromise if we want to succeed in creating a balanced budget.

This letter is partisan in that it is signed by all Democrats. But it is my feeling that as Americans every Member of the Senate should have an opportunity to endorse the position described in this document. As Americans we all must do our very best for our children in this Nation, and that is what this letter is about.

As the Senators from Nebraska and North Dakota discussed yesterday with the release of the Senate Democratic budget, we can balance the budget in 7 years using the most conservative CBO estimates without hurting our children.

This letter I hold in my hand reflects just one part of that commitment. I do not think my colleagues across the aisle are advocating the block grants so that we will intentionally hurt children in this country. I will simply tell you the reaction of people at the State and local level who actually provide Medicaid services to children is overwhelmingly negative.

They can see from the grassroots level what it will mean to design a Medicaid program, and they do not want drastic funding cuts, and they do not want a block grant, because it fundamentally will not work.

Groups representing almost every decisionmaker and provider in this country have come out against the Medicaid block grant proposal. The Conference of Mayors, the National Association of County Officials, the National Conference of State Legislatures, the Democratic Governors Association, the American Hospital Association, and most other medical provider organizations, and all child advocacy groups, all have rallied in opposition to this bad idea.

I heard yesterday from Mayor Norm Rice of Seattle and the Mayors Association, who are sending a letter of their own to the President. The block grant has been condemned by anyone who has thought about how it will affect this country's children and other vulnerable populations. Tonight there will be a child within a few blocks from this building who will need the help of a caring health care professional, and Medicaid will pay for the care.

Marion Wright Edelman uses a phrase that sums up what we are talking about when it comes to Medicaid and children, ''protection of last resort.'' We have to guarantee that protection. It is a moral commitment, and it is within our grasp. We can balance the budget but we can do it without giving in to mindless partisanship and we can do it without sacrificing our basic commitments.

EXHIBIT 1

U.S. SENATE,
Washington DC, December 13, 1995.

President WILLIAM J. CLINTON,
The White House,
Washington, DC.

DEAR MR. PRESIDENT: We are writing to express our strong support for the Medicaid per-capita cap structure in your seven-year budget. We have fought against Medicaid block grants and cuts in the Senate, and we are glad you acknowledge the importance of our position.

We support a balanced budget. We are glad you agree with us that we can balance the budget without undermining the health of children, pregnant women, the disabled, and the elderly.

The savings level of $54 billion over seven years included in your budget will require rigorous efficiencies and economies in the program. However, after consulting with many Medicaid Directors and service providers across the country, we believe a reduction of this level is possible to achieve without dramatic limits on eligibility or cuts to essential services. States will need flexibility to achieve these savings, and you have taken steps toward granting it in your bill.

We were encouraged that your Medicaid proposal does not pit Medicaid populations against one another in a fight over a limited pot of federal resources.

We were further encouraged to hear Chief of Staff Panetta relay your commitment to veto any budget not containing a fundamental guarantee to Medicaid for eligible Americans.

We commend you on the courage you have exercised in making these commitments to Americans eligible for Medicaid. There is a bottom line when it comes to people's health; do not allow the current Congressional leadership to further reduce our commitment to Medicaid beneficiaries.

Your current proposal is fair and reasonable, and is consistent with what we have advocated on the Senate floor. We urge you in the strongest possible terms to hold fast to these commitments in further negotiations. We are prepared to offer any assistance you may need in this regard.

Sincerely,

Bob Graham; John Breaux; Jay Rockefeller; Herb Kohl; Patrick Leahy; Frank R. Lautenberg; Ted Kennedy; Tom Daschle; Patty Murray; Barbara Boxer; David Pryor; Barbara A. Mikulski; Max Baucus; Paul Simon; Kent Conrad; Wendell Ford; Harry Reid; Paul Wellstone; Richard H. Bryan; Ernest Hollings; Dianne Feinstein; Tom Harkin; Byron L. Dorgan; Chris Dodd; J. Bennett Johnston; Joe Lieberman; Paul Sarbanes; Carol Mosely-Braun; John Glenn; Jeff Bingaman; Carl Levin; Bill Bradley; John F. Kerry; Bob Kerrey; Joe Biden; Daniel K. Akaka; Dale Bumpers; Daniel Inouye; Chuck Robb; J. James Exon; Howell Heflin; Claiborne Pell; Russ Feingold; Daniel P. Moynihan; Sam Nunn; Robert C. Byrd.

Mr. FEINGOLD addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD. Thank you, Mr. President.

HEALTH CARE

Mr. FEINGOLD. Let me first of all express my appreciation to the Senator from Massachusetts and the Senator from West Virginia who just spoke about the advertisement that I also saw this morning with regard to Mrs. Clinton and her health care financing proposals as opposed to those of the leadership in the Congress of this session.

To suggest that the President's proposal last year was in any way the same in terms of cuts to Medicare and Medicaid is truly absurd. In fact, I want to emphasize that one of the very significant things that the President's plan would have done is provide for the first time a national home- and community-based long-term care program, to help people stay in the community, and I think save the country a lot of money in both the Medicare and Medicaid budget.

To suggest that somehow Mrs. Clinton's proposal was in any way, shape or form like what we are seeing today with the slash-and-burn approach to Medicaid and Medicare is, to me, very unfortunate and very distorting and, again, suggests that there is no limit in reference to the actual facts in these situations.

I don't know how the American people are supposed to know who to believe. That is the comment I get most often now at home. ''Who do you believe?'' And when you are willing to put an ad on the television that suggests that a program that was proposed by the President last year is essentially the same as the Medicare and Medicaid cuts proposed today, I just get the feeling that people will not have any idea who is telling the truth in Washington. I think we all suffer because of that.

CONFEREES HAVE FAILED TO PROTECT FREE SPEECH RIGHTS OF INTERNET USERS

Mr. FEINGOLD. Mr. President, on another matter, 2 weeks ago I came to the Senate floor to urge my colleagues who are telecommunications conferees not to adopt potentially unconstitutional legislation in our efforts to protect children on the Internet. I was concerned about the substantial chilling effect this legislation would have on constitutionally protected speech. The media had just reported recently an online service provider's censorship of the word ''breast'' because it was vulgar, supposedly, despite the fact that that term merely refers to a part of the anatomy.