SENATE—*Wednesday, March 27, 1996*

(Legislative day of Tuesday, March 26, 1996)

The Senate met at 9:30 a.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Gracious Father, You created us to soar, to mount up with wings like eagles. We realize that it is not just our aptitude, but our attitudes that determine our altitude. Our attitudes are the outward expression of our convictions congealed in our character. People read what is inside by what we project in our attitude.

Help us to express positive attitudes based on a belief that You are in control and are working out Your purposes. We want to allow You to love us profoundly so our attitude will exude vibrant joy. May Your peace invade our hearts so our attitude will reflect an inner security and calm confidence. We long to have the servant attitude of affirmation of others, of a willingness to listen to their needs and of a desire to put our caring into practical acts of kindness.

Lord, if there is any false pride that makes us arrogant, any selfishness that makes us insensitive, any fear that makes us overly cautious, any insecurity that makes us cowards, forgive us, and give us the courage to receive Your transforming power in our hearts. All this is so our attitude to others may exemplify Your attitude of grace toward us. In Your transforming name. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The able acting majority leader, Senator LOTT of Mississippi, is recognized.

Mr. LOTT. I thank the Chair.

ORDER OF PROCEDURE

Mr. LOTT. I ask unanimous consent that the time between now and 10:30 be equally divided between the two leaders or their designees.

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

SCHEDULE

Mr. LOTT. Also, Mr. President, for the information of all Senators, following the debate and the establishment of a quorum, there will be a cloture vote on the pending Murkowski amendment to H.R. 1296, the Presidio legislation. Senators should be alerted that the vote will occur at approximately 10:40 this morning. If cloture is invoked on that substitute, it is still the hope that we may complete action on H.R. 1296 during today's session. If cloture is not invoked, it may be the intention of the majority leader to begin consideration of either the line-item veto conference report or the farm bill conference report.

Senators should be reminded that additional rollcall votes can be expected during the day. And again to emphasize that point, we are hoping we will soon have an agreement, working with the Democratic leader, we can announce with regard to the conference report to accompany S. 4, the line-item veto bill, but we are not prepared to do that at this time. So we will have debate between now and 10:30 equally divided, and then we will have the vote at 10:40.

I yield the floor, Mr. President.

Mr. MURKOWSKI addressed the Chair.

The PRESIDING OFFICER (Mr. INHOFE). The Senator from Alaska.

Mr. MURKOWSKI. Mr. President, I wish the Chair a good day.

PRESIDIO PROPERTIES ADMINISTRATION ACT

The Senate resumed consideration of the bill.

Pending:

Murkowski modified amendment No. 3564, in the nature of a substitute.

Dole (for Burns) amendment No. 3571 (to amendment No. 3564), to provide for the exchange of certain land and interests in land located in the Lost Creek area and other areas of the Deerlodge National Forest, Montana.

Dole (for Burns) amendment No. 3572 (to amendment No. 3571), in the nature of a substitute.

Kennedy amendment No. 3573 (to amendment No. 3564), to provide for an increase in the minimum wage rate.

Kerry amendment No. 3574 (to amendment No. 3573), in the nature of a substitute.

Dole motion to commit the bill to the Committee on Finance with instructions.

Dole amendment No. 3653 (to the instructions of the motion to commit), to strike the instructions and insert in lieu thereof "to report back by April 21, 1996 amendments to reform welfare and Medicaid effective one day after the effective date of the bill."

Dole amendment No. 3654 (to amendment No. 3653), in the nature of a substitute.

Mr. MURKOWSKI. I am not going to take too long because I know many of my colleagues want to speak on the issues affecting welfare and Medicaid. But I do want to express my disappointment with the Democratic leadership and my colleagues on the other side of the aisle who have effectively killed a major and important park and conservation measure. As a matter of fact, the parks bill that we debated for some 7 hours the day before yesterday now can no longer be discussed, there is no additional time for debate because the measure now has, out of necessity, been set aside.

Let us look realistically at what this action is costing the general public relative to its parks and specific areas of importance, including the Presidio, which was in this parks package. The package included the ability to provide 2 million acres of wilderness to the people of the United States in the State of Utah, and to provide an important watershed to both New York and New Jersey known as Sterling Forest.

We had this measure before us. It had been put together as a consequence of a great deal of effort and a great deal of compromise. Some 23 States were affected, with some 53 individual titles or lands affected in those States. It was a package that had been negotiated with the House as well, and it was apparent to all that in order for the package to pass we had to keep all its aspects, including those that were of a controversial nature. One of those, of course, was Utah wilderness. The issue was all or nothing with some of the opponents. They felt that 2 million acres added to the wilderness designation in Utah was inadequate; it should be 5 or 6 million acres. The citizens of Utah—the legislature, the Governor, the entire Utah delegation—felt that 2 million acres was adequate. In any event, this body would have made that determination on a clear and unrestricted vote had not some Members saw fit yesterday to attach the minimum wage amendment to this package—the minimum wage is an important issue, but it simply does not belong on this parks package—and as a consequence the parks package has been set aside.

It will come up another day, but I wish to express my disappointment, and I thank my colleagues who have worked so hard to try to bring the package together.

I am disappointed also in the media because they failed to recognize the importance of this package. But I wish to at least have the RECORD reflect why we had that package before us.

The Senator from California and the Senator from New Jersey, both have

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

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indicated that somehow it was the fault of the majority that the package was before the Senate and that it was unfair, some suggested awful, that they were forced to vote on Utah wilderness and other measures if they wanted to see their measures enacted. In other words, they wanted Utah wilderness out of it. Yet they knew that the House would simply not accept the package unless Utah wilderness was in it.

Let the RECORD reflect that it was the objections on the other side of the aisle that have held each and every one of these measures up for some year or thereabouts. This was the right of the individual Senator, but I think it is disingenuous for him and other Senators on the Democratic side to suggest we were holding these measures. We simply recognized the reality and pleaded with the various Senators on holding together because there was something in this for everyone; every State was affected in some manner or form, and we would either all gain something meaningful or we would simply lose the effort.

I do not think any of us at that time anticipated that the effort would be lost by attaching a minimum wage amendment to the parks package. I repeatedly tried to get time to break the threatened filibuster but there was no support on the other side of the aisle. Utah wilderness is a recent addition to the Senate Calendar, as is the Presidio. All the other measures have been effectively held up by the Democratic leadership because obviously they did not want to take on the holds from one Senator.

The situation was simple. If the Senator from New Jersey had not prevailed in both the House and Senate, then he was going to prevent any public land bills from being enacted. There were a few exceptions to that for which the Senator from Alaska is thankful, but it did not matter how important or critical to the National Park System they may be; in his opinion his measure was more important. That was his right. I respect him for his determination. But I want the RECORD also to reflect that I have tried my best to accommodate the interests of the Senator from New Jersey on Sterling Forest, but I am certainly not a magician. There are Members of the House who not only do not like the measure of the Senator from New Jersey, but they also have measures that they want. I hoped we could all get together to do something useful, or we could continue the stalemate. That appears to be where we are today.

So, there are two sides to every issue. I think we have all tried to work within our respective areas to accommodate the various Senators and to recognize this for what it was, and that was a giant compromise. While working with my friend from New Jersey and the Senators from California on their measures, as well as colleagues on both sides of the aisle, I appreciate the fact that the other side has decided, evidently, for the political opportunism associated with the realization that we have the AFL–CIO come out and publicly endorse the Clinton administration and indicated its willingness to raise some $35 million to defeat Members on this side of the aisle who are running. Evidently, that was the momentum to put the minimum wage on the parks bill.

I also appreciate the fact that the people of Utah are the real victims in this, in a sense, because it is their State that is in jeopardy with regard to the amount of wilderness. I commend those Senators here for speaking on behalf of their State in the interests of the majority of the residents of that State.

We can either reestablish some sense of comity, or history is going to reflect this very important package of measures for the park system was killed, and the environment is the sufferer. Unfortunately, I do not think the media are going to pick up on the accuracy of this, but someday history will.

I guess my unhappiness grew even greater when the two Senators from Massachusetts saw fit to basically drive a stake into the heart of this measure. I, again, went out of my way to include measures dealing with the Boston National Historical Park, Blackstone River Valley, which were items of great interest to the Senators from Massachusetts. I told the House there was no deal on this unless they were prepared to deal with those measures—not the measures just of the Senator from New Jersey, but the measures proposed by the Senators from Massachusetts.

Apparently, they care more about the politicized potential of campaign contributions from organized labor than they do about the measures from their own State or other measures included in this package for the benefit of others. It is a political stunt, and it is an expensive political stunt, at the expense of the environment.

So we are into it, and the consequences of that lead us to a vote that is going to take place in about 45 minutes on cloture. I, naturally, urge my colleagues to support cloture, but I am realistic enough to recognize this vote is going to be seen as a politically symbolic vote. It is going to have a reference to the minimum wage, which it certainly should not. This is a vote that should be on the merits associated with the parks package.

What is the answer? Sterling Forest is going to lose, Presidio is going to lose, Utah wilderness is going to lose, and 47 other special park bills will not move. This is the problem with hostage taking: Either they all get freed or they all will die. I think it is time to get off the plastic pedestal and get down to the business of the Presidio and other measures. I will vote for Sterling Forest, I will vote for Presidio, I will vote for Utah wilderness, I will vote for the other measures in the package because of its overall good for the environment, good for the National Park System, and the good for the Nation. I think it is time my colleagues on the other side of the aisle wake up and join me on what is good for the U.S. Senate, and that is to pass this package of compromise legislation.

I yield the floor.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Mr. President, I commend the chairman of the Senate Energy and Natural Resources Committee for the statement he just made and for the effort he has brought to the Senate floor to get this important legislation through. I join him in regretting it has not been possible. I, too, hope in the future it will be possible.

THE WALNUT CANYON NATIONAL MONUMENT BOUNDARY MODIFICATION

Mr. President, I rise today to speak in favor of the omnibus lands bill, an amendment in the nature of a substitute to H.R. 1296. This bipartisan legislative package includes the Presidio bill and more than 50 other park and public lands bills, most of which have already been reported by the Energy and Natural Resources Committee. The vast majority of these bills are not controversial and deserve to be passed as part of this package.

I realize a few of the provisions in this legislation are controversial. Most notable is the title addressing Utah wilderness. The groups involved have worked for many years to strike a compromise. I support the Utah delegation in its effort to bring some finality to this situation. I believe Senators HATCH and BENNETT have made significant concessions, particularly in increasing acreage, and modifying the controversial hard release language. The people of Utah have wrestled with wilderness for over 20 years at a cost of $10 million. This issue needs to come to closure.

I also want to speak about an issue closer to home: Walnut Canyon. On November 9, 1995, the Energy and Natural Resources Committee held a hearing on this legislation and on December 6, the committee voted unanimously in favor of reporting the legislation to the full Senate. Throughout the legislative process, this issue has had the full support of the House, the Senate, and the affected communities in Arizona.

This legislation, introduced by Senator MCCAIN and me, is based on a consensus reached last year among interested parties, including the city of Flagstaff, the Coconino County Board of Supervisors, the Grand Canyon Trust, the National Parks and Conservation Association, the Hopi Tribe, the Navajo Nation, the National Park

Service, the Forest Service, and numerous private individuals. I read this list only because I am proud that such diverse parties in Arizona could come together to support this important endeavor.

S. 231 is similar to the original legislation drafted last session by Representatives Karan English and BOB STUMP, who deserve a great deal of the credit for bringing the parties together. This session, Representative J.D. HAYWORTH introduced a House companion bill, H.R. 562, which was approved by the House by an overwhelming vote of 371 to 49. I hope that we are able to match that here in the Senate.

Walnut Canyon National Monument is an Arizona treasure that we must protect. This legislation will expand the boundaries by exchanging Park Service land for Forest Service land, adding approximately 1,200 acres to the monument. Currently, the monument encompasses numerous Sinaguan cliff dwellings and associated sites. Walnut Canyon includes five areas where archaeological sites are concentrated around natural promontories extending into the canyon, areas that early archaeologists referred to as forts. Three of the five forts are within the current boundaries of the monument, but the two others are located on adjacent lands administered by the Forest Service. By exchanging Park Service land for this Forest Service land, the two outside forts will be within the monument and receive the protection that those resources need and deserve. It is a simple and commonsense way to make the monument whole.

Mr. President, again, I urge my colleagues to put partisan differences aside and pass the omnibus parks bill.

Mr. HATFIELD. Mr. President, I support the omnibus lands bill before the Senate today. I speak as one of the few Senators without a single item in this large package. Let me focus for a moment on the most controversial component of the package—title XX, the Utah Public Lands Management Act.

As a member of the Energy and Natural Resources Committee, I have followed the divisive political debate that has raged for decades over the question of how much land in the State of Utah should be designated as wilderness. This debate has now spilled outside the boundaries of the Utah delegation and the State they represent. It is now a national debate in many ways outside their complete control. As a Senator who has seen this same thing happen in his own State, I can appreciate the difficulties of my colleagues from Utah.

I have also followed the Bureau of Land Management [BLM] over the last 15 years as it has spent in excess of $10 million analyzing vast tracks of land in Utah to more precisely determine their suitability for wilderness designation. In 1991, Interior Secretary Lujan identified 1.9 million acres as suitable for wilderness designation. The bill before us, which recommends 2 million acres for designation, reflects the technical information gathered by BLM as well as input from over 75 formal public meetings and thousands of letters.

Over the past two decades, our thinking about natural resource management has evolved, resulting in a more flexible and cooperative role for government at all levels—Federal, State, local, and tribal. As one who has looked for ways for the Federal Government to provide more flexibility in regulated activities, I am pleased that this evolution is taking place.

Mr. President, during the consideration of this bill in the Energy and Natural Resources Committee, I raised a number of concerns about various aspects of this legislation. I compliment my colleagues from Utah for their willingness to work with me to address my concerns. The legislation now allows for more balance and predictability, two components that are vital in public land management and decision-making. Their revisions include the following:

The release language, previously characterized as too hard, has been softened. The bill now clarifies BLM's role in administering the 1.2 million acres under study that were not designated as wilderness;

Another 200,000 acres have been added, making the total wilderness designation slightly greater than BLM's 1991 final recommendation;

The land exchanges allowed for in the legislation are now equal value exchanges; and,

Provisions allowing the construction of dams, pipelines, or communication sites within the wilderness area have been deleted.

There are those who are still not satisfied. They would like more acreage to be designated and tighter restrictions to be put on any existing uses of those lands proposed for inclusion. Some would even like to totally eliminate all existing uses.

These goals are self-defeating. They run counter to the 1964 Wilderness Act, which called for designating lands untrammeled by man, for the purposes of retaining its primeval character. The goal was not to find lands that have been encroached upon and require they revert to their primeval character.

The seemingly endless Utah wilderness debate demonstrates what can happen when either side takes an all or nothing approach. We must all recognize that wilderness is not the only protective designation available to us. There are other, more appropriate ways to protect our public lands while recognizing and allowing for prior uses. My colleagues from Utah have been fair and objective in their designations and in their release language.

This proposal relies upon BLM's planning process for the nondesignated public lands. This provides the flexibility and cooperative spirit necessary for sound management. It is important to note that their approach does not prevent a future Congress from reconsidering these lands' wilderness potential. Nothing is set in stone. Nothing would prevent a future Congress from passing legislation to add land to or withdraw land from this plan.

Those who depict this wilderness designation process as though we are faced with an irrevocable choice between wilderness or the bulldozer do us all a disservice.

Even for those lands never designated as wilderness, all is not lost for preservationists. There are a host of BLM land classifications designed to protect the natural and cultural attributes of our public lands without eliminating existing uses. Releasing the 1.2 million acres not selected for wilderness designation provides BLM's land managers, working together with local communities, greater management flexibility while insuring continued resource protection. These other protective designations include the following:

Areas of critical environmental concern;

Outstanding natural areas;

National landmarks;

Research natural areas;

Primitive areas; and

Visual resource management class I areas.

Mr. President, I have seen a fair number of wilderness bills become law during my three decades on the Energy and Natural Resources Committee. Since 1964, Congress has enacted 88 laws designating new wilderness areas or adding acreage to existing ones. We now have a system that includes 630 wilderness areas encompassing 104 million acres in 44 States.

I support passage of the Utah wilderness bill. This legislation brings to a close a 15-year-long battle and addresses more than its share of difficult issues. It does so fairly and objectively. Failure to pass this bill would put us into a third decade of debate and would seriously undermine the wilderness study process.

While I continue to view this legislation as pushing the edge of what is acceptable under the 1964 Wilderness Act, I take particular note of the longstanding and divisive debate this provision would allow us to move forward from. I look forward to following this debate in the coming days.

I yield the floor.

Mr. LEAHY. Mr. President, I rise in strong opposition to the omnibus national parks bill. There are so many problems with the Utah lands provisions that I hardly know where to begin in urging other Senators to vote against this package.

The Utah lands provision is simply unacceptable. It does not protect

enough land, the American public opposes it, it includes hard release language, it sets bad precedents for wilderness designation, it opens unique and beautiful lands to powerlines, dams, pipelines, mining, and other uses, it compromises the heritage of our children, and it achieves all this only by ransoming every other national park project in the Senate.

The proponents of Utah lands language cannot buy public approval at any price. I wrote to Majority Leader DOLE last week to make this point perfectly clear. Senators, including this Senator who wants very much to see some of the associated measures pass, will not stoop to pass a so-called wilderness bill that leverages politics against the priceless beauty of remote Utah canyon lands.

I am frustrated by the high-stakes games being forced upon the Senate. One week we have our backs to the wall to finish a late farm bill so that farmers can begin planting. Another week we have our backs to the wall to finish a late appropriations bill so that the Federal Government can stay open. Last summer we were forced to adopt a salvage rider in order to get peace in the Middle East, relief to Oklahoma City bombing victims, and help for flood-damaged communities. In another occasion we have our backs to the wall to simply get veterans' benefits into the mail. Recently, the Senate has not been the deliberative body that Washington, Jefferson, Hamilton, and others envisioned for the greatest Nation in the world. The Senate should consider legislation on its merits. If a bill fails Senate approval, it fails. If it fails a veto override, it fails. Our Constitution sets the rules, and they have served us well for 200 years.

It is time to bring the political parties back together for reasonable debates on reasonable environmental policy. Conservation is as Republican as Richard Nixon and as Democrat as Jimmy Carter. Environmental protection is supported by Americans of all political stripes. I have worked with former Senator Bob Stafford in Vermont to restore the tradition of bipartisanship on environmental issues. Just recently I received a letter from the organization Republicans for Environmental Protection asking Senator DOLE to strip the Utah provisions from the bill. It is wrong for any party to charge down a path of exploitation and environmental abuse, and I urge the Senate to correct its course.

My children, and many of the children of my colleagues, will live most of their lives in the next century. We are in a position to decide what the next century will look like. Yes, we got here first. Just as the first explorers made resource decisions centuries ago, we now face similar decisions about the fate of our natural resources. Just as the native Americans and first European settlers decided to protect public lands as commons, we have an obligation to those who will follow. This bill gives the Senate a clear opportunity to decide whether we protect our heritage, or say "me first" to the treasures of southern Utah.

The political pressure to support the Utah giveaway is enormous for some of my colleagues. Nonetheless, the responsibility to do the right thing is far more valuable and far more important. I urge the Senate to reject the Utah lands provision.

Mr. SARBANES. Mr. President, I rise today to add my voice to those requesting that S. 884, title XX of the pending substitute amendment, be removed from the Presidio bill and be considered as freestanding legislation.

Mr. President, on Monday the Senate began consideration of H.R. 1296, legislation developed with the assistance of the California delegation creating a Presidio trust to manage property at the Presidio in San Francisco. The Presidio, a former Army post overlooking San Francisco Bay, was recognized by the Congress in 1972 as a national treasure and was slated for inclusion in the National Park System upon its cessation from military use.

The substitute amendment before us, the omnibus parks and recreation bill, contains—in addition to the Presidio bill—approximately 32 public lands titles, many of which have been reported out of the Energy and Natural Resources Committee with bipartisan support. However, one title of this amendment, title XX, the Utah Public Land Management Act, does not enjoy the same bipartisan support, and is preventing the Senate from completing action on the underlying Presidio legislation in a timely manner.

The Utah Public Land Management Act contains a number of provisions which would have a profound impact on all existing and future wilderness designations, seriously undermining standards of public lands management established by the Wilderness Act of 1964. The Wilderness Act of 1964 defined a wilderness as land where, "in contrast to those areas where man and his own works dominate the landscape, is hereby recognized as an area where the earth and the community of life are untrammeled by man, where man himself is a visitor who does not remain."

Under this definition of wilderness, commercial activities, motorized access, and the construction of roads, structures, and facilities are prohibited in designated wilderness areas. I have serious concerns about provisions of the Utah land bill which would clearly undermine this definition of wilderness. This legislation would allow unprecedented uses incompatible with wilderness including motorized vehicle access within protected areas, construction of communication towers, and continued grazing rights.

In addition, I am concerned that the Utah lands bill designates only about 2 million of the Federal Government's 32 million acres in Utah as wilderness. Currently, the Federal Government manages 3.2 million acres of its holdings as wilderness study areas, allowing the Federal agency charged with managing the land the opportunity to conduct a thorough study to determine its suitability for inclusion in the Wilderness Preservation System. The legislation before us would direct those Federal agencies to make all land not selected for wilderness available for multiple uses, such as mining, grazing, and development. Hard release language included in the bill would preclude those agencies from managing this land in a way which would protect its wilderness characteristics for the future.

Mr. President, the wild and beautiful Utah public lands which are under discussion today are a national treasure belonging to all Americans. In my view, it is critical that we, as a nation, do not allow the destruction of our precious natural resources. Wilderness areas constitute only 2 percent of all land in the United States. We must not fail in our obligation to protect the beauty and integrity of these lands for future generations.

Mr. LAUTENBERG. Mr. President, I rise in opposition to the substitute amendment to H.R. 1296, the Presidio bill.

Mr. President, as we all know by now, this is not a noncontroversial public lands bill. There are many provisions in the bill that truly are noncontroversial, and that have been considered and voted on in committee with little if any opposition.

And I would note that the bill includes the Sterling Forest Preservation Act, which Senator BRADLEY and I strongly support.

Unfortunately, the real goal of the pending substitute amendment is to slip through the highly controversial Utah wilderness provisions, based on Senate bill 884. Those provisions would permanently release millions of acres from wilderness study, and, in turn, allow uses on these lands that will destroy lands with significant ecological and scientific value.

Mr. President, I oppose including S. 884 in this omnibus lands bill, and will support an effort to remove that title in its entirety. We need to act on many of the provisions in the underlying legislation, which are truly noncontroversial. But we ought to have a separate, open, and honest debate on those provisions that are controversial.

Mr. President, I have heard from more people—both in New Jersey and from out West—about the Utah wilderness bill than perhaps any other public lands issue. By an overwhelming margin, people have urged me to support Utah wilderness, and to oppose S. 884 as written.

Who are these people who visit my office, write me letters, stop me in the halls? They are people from New Jersey who understand what it means to live in the most densely populated State in the Nation. People who understand what it means to live in a State still reeling from the legacy of pollution from the industry, and who value open space, beautiful natural resources, and clean fresh air.

These New Jerseyans know that once land is destroyed by extensive development, it may never return as it was. At best, it takes a very long time to recover.

I've heard it said on the floor of this Senate that the only people who oppose S. 884 are the Eastern elites. Well, Mr. President, these so-called elites from New Jersey are really ordinary people who care about their environment and their Nation's natural resources. They care because they know what it's like to be without.

But, Mr. President, not everybody opposed to S. 884 is from New Jersey. Take the mayor of Springdale, UT. He visited me a year ago to explain how his community benefits more from preserving the wilderness than from activities that would alter or destroy it. As the mayor explained, recreation and its associated businesses provide for a sustainable and growing economy. By contrast, he said, resource extraction does not.

I've also heard from a fourth generation Utah native, the past president of the Salt Lake City Rotary Club, a Mormon, and father of four children who urged me to get involved in this issue.

He told me that recreational and other commercial enterprises depend on the wilderness. And that these businesses are critical to the economic vitality of the State of Utah and to Utahn's quality of life. He also told me that preservation is crucial to his peace of mind.

Mr. President, it is true that these lands are all in Utah. But they are also national lands that contribute to the entire country. They have great ecological significance, and they provide scientific and educational treasures, as well as a growing recreation business. That is why I care.

I also care very much about title XVI of the bill, the Sterling Forest Preservation Act. Let me talk a little about Sterling Forest and why its preservation is so important.

This bill designates the Sterling Forest Reserve and authorizes up to $17.5 million to acquire land in the Sterling Forest area of the New York/New Jersey Highlands region.

This would preserve the largest pristine private land area in the most densely populated metropolitan region in the United States. It also would protect the source of drinking water for 2 million New Jerseyans.

Mr. President, the Highlands region is a 1.1 million acre area of mountain ridges and valleys. The region stretches from the Hudson to the Delaware Rivers and consists primarily of forests and farmlands. The Forest Service, in a 1992 study, called the Highlands, "a landscape of national significance, rich in natural resources and recreational opportunities."

Unfortunately, the Highlands region faces an increasing threat of unprecedented urbanization. Perhaps the most immediately threatened area is Sterling Forest.

Located within a 2-hour drive for more than 20 million people, the 17,500-acre tract of land on the New York side is owned by a private company that has mapped out an ambitious plan for development.

The community that this corporation plans to develop will have a negative impact on drinking water for one-quarter of New Jersey residents. It also threatens the local ecosystem and wildlife, the nationally designated Appalachian Trail, and the quality of life of residents of the New York-New Jersey metropolitan area.

I will not describe this proposed project in detail.

But suffice it to say that one cannot build more than 14,000 housing units and 8 million square feet of commercial and light industrial space, and release 5 million gallons of treated wastewater into a pure environment, without a significant impact.

My concern about the project's effect on New Jerseyans' drinking water is not new. We have known for some time that this development will destroy valuable wetlands, which filter and purify the water supply, and watersheds, which drain into reservoirs—reservoirs which supply one quarter of New Jersey's residents with drinking water.

The proposal calls for three new sewage treatment plants to accommodate the development. These plants will discharge 5.5 million gallons of treated wastewater each day into the watersheds.

Compounding matters will be nonpoint source pollution generated by runoff from roads, parking lots, golf courses, and lawns. This runoff carries pollutants such as fertilizers, salt, and petroleum products, among others. Together these pollutants pose a serious threat to drinking water, which is why there is so much concern in New Jersey.

I am not alone in my opposition to the proposed development. Residents from the nearby communities also oppose it. Based on testimony delivered during local public hearings, the development plan will impose $21 million in additional tax burdens on surrounding communities. On the other hand, under the management scenario proposed by this bill, a park would generate revenue.

The only viable management option for this important ecosystem is preservation. And that is what is proposed in this legislation.

The bill would provide critical protection for the forest. But it does not impose the heavy hand of the Federal Government on the local community or on the owner of the property. The funds authorized in this bill represent a fraction of the total funding needed to purchase the forest. The rest would come from other public entities, such as the States of New Jersey and New York, and private parties.

I also would note that the legislation specifically requires a willing buyer-willing seller transaction—if the company determines that it is not in its best interest to sell, it doesn't have to.

Furthermore, the Federal Government would be relieved of the significant costs associated with forest management, law enforcement, fire protection, and maintenance of the roads and parking areas under an agreement with a respected bi-State authority.

These provisions have the support of the local communities, the two States, and regional interests. They are cost effective and reasonable. And they are environmentally responsible.

Senator BRADLEY and I have worked on this bill for years now, and we are pleased to note that last June, the bill passed as part of H.R. 400, now pending in the House. We have heard many expressions of support from the Speaker of the House for preserving Sterling Forest, and we anxiously await passage of H.R. 400.

Unfortunately, including Sterling Forest in this bill only serves to, in the words of the Sterling Forest Coalition, "hold Sterling Forest hostage to S. 884." The people of New Jersey do not support this omnibus lands bill as written, and I share their view.

Let me quote from a letter I received yesterday from the Highlands Coalition, a leading organization with membership in Connecticut, New York, and New Jersey:

> The Title XX of this bill, the Utah Public Lands Management Act . . . is anathema to environmental principles and must not be connected to Sterling Forest funding . . . The amount of acreage it would set aside as Wilderness in southern Utah is meager compared to what the majority of citizens in Utah and surrounding States would like to see. The preservation of Sterling Forest must not be at the cost of environmental degradation elsewhere in the United States. The Omnibus Parks bill must be amended to delete in its entirety the S. 884 Utah Public Lands Management provisions. If this bill is not so amended, we ask you to vote against the entire Omnibus Parks package.

Mr. President, letters like this help show how our Nation's wilderness areas meet national interests. I ask unanimous consent that the text of the letter from the Highlands Coalition be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE HIGHLANDS COALITION,
Morristown, NJ, March 21, 1996.

Re National Parks omnibus package.

Hon. FRANK R. LAUTENBERG,
Senate Office Building,
Washington, DC.

DEAR SENATOR LAUTENBERG: The Highlands Coalition, with membership organizations representing more than 300,000 people in New York, New Jersey and Pennsylvania, has been working for over 5 years for the preservation of the Sterling Forest in New York as public lands. New York, New Jersey and a private foundation have committed between $20 and $30 million for this purpose, but we need the federal funding component. Over the past three years various bills have been introduced in both the House and the Senate that would provide federal funding, but none of these has yet been signed into law. Now, another bill containing provisions for Sterling Forest funding, the Omnibus National Parks bill, has been introduced in the Senate.

The Title XX of this bill, the Utah Public Lands Management Act introduced by the Utah Senators as S. 884, is anathema to environmental principles and must not be connected to Sterling Forest funding. The amount of acreage it would set aside as Wilderness in southern Utah is meager compared to what the majority of citizens in Utah and surrounding states would like to see. Further, key provisions would allow development in designated federal Wilderness areas in Utah, thus threatening the integrity of the entire National Wilderness Preservation system.

The preservation of Sterling Forest must not be at the cost of environmental degradation elsewhere in the United States. The Omnibus Parks bill must be amended to delete *in its entirety* the S. 884 Utah Public Lands Management provisions. *If this bill is not so amended, we ask you to vote against the entire Omnibus Parks package.*

Sincerely,

WILMA E. FREY,
Coordinator.

Mr. LAUTENBERG. I also ask unanimous consent to have printed in the RECORD an editorial from a newspaper in New Jersey, the Bergen Record, who editorialized, "Sterling Forest is too important to this region's well-being to become a hostage of partisan politicking."

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

PROMISES, PROMISES—UTAH LAND GRAB WOULD HURT STERLING FOREST

Is this crazy or what? At a time when many congressional Republicans are trying to project a more moderate approach on environmental issues, some of their brethren are pressing for an omnibus public-lands bill that is an anathema to conservationists—and a stumbling block to saving Sterling Forest.

It's time for the GOP leadership, House Speaker Newt Gingrich and Senate Majority Leader Bob Dole to get on the same page and push for legislation that saves important resources without sacrificing others.

The omnibus environmental bill, which is expected to come to a Senate vote as early as later this week, includes $17.5 million toward the purchase of Sterling Forest. But it also includes a provision that would open 20 million acres of wilderness in southern Utah to forestry, mining, and other commercial interests. That's unacceptable.

Interior Secretary Bruce Babbitt has said, rightly, that he would recommend that President Clinton veto any bill that includes the Utah land giveaway. That would sink years upon years of effort to obtain federal funding to save Sterling Forest—a 17,500-acre watershed that provides the drinking water for 2 million New Jerseyans.

At a time when the owners of the land are moving ahead with their plans to build 13,000 housing units and 8 million acres of commercial development on the mountainous tract, such a setback at the federal level would be disastrous.

Just last month, Mr. Gingrich stood in a clearing near Sterling Forest and pledged that Congress would soon pass a bill to save the land without sacrificing any environmentally sensitive land in the process. The only sure way to do that is for Mr. Gingrich to push forward with an existing Sterling Forest bill, HR-400.

This bill has already passed the Senate. And Mr. Clinton has indicated he would sign it. Now it's a question of Mr. Gingrich keeping his word. Sterling Forest is too important to this region's well-being to become a hostage of partisan politicking.

As for the other public-lands legislation, the Republicans would be wise to jettison the Utah land grab and to press forward with an omnibus bill that has the nation's best interests at heart.

Mr. LAUTENBERG. Mr. President, I also care about title XXVI, which recognizes the historic significance and natural beauty of the Great Falls area of Paterson, NJ. Paterson is my home town. The history of the region was part of my childhood.

In 1778, Alexander Hamilton came to the area and decided that the Great Falls could serve as a power source for the Nation's first industrialized community. Working with Pierre L'Enfant and then Governor William Paterson, Hamilton began to develop the resources as a means to free the Nation from England through business and manufacturing.

Over the years, Paterson became known as the Silk City, and as the center of the textile industry.

During the past decades, however, the Great Falls historic preserve has borne the brunt of industrial flight and the treasures at the Great Falls are threatened. This bill would allow for the partnership of the National Park Service to assist in restoring the treasures and history of the area. The Senate passed this bill last Congress. The bill deserves to be passed on its own, rather than as part of an omnibus park land bill that will be vetoed.

In conclusion, Mr. President, I hope my colleagues will understand what is happening here. Most of the bills included in this package are noncontroversial. But some are not.

We should move forward and strike those bills that will attract a veto from the President and allow the rest of the bills to be considered and passed on their own merit.

Mr. BINGAMAN. Mr. President, I rise to express my concerns with the current language of the Utah wilderness bill. First of all, I am opposed to this controversial bill being attached to a large group of largely noncontroversial bills that are very important.

I do support passage of a Utah wilderness bill. However, I cannot support this bill. This bill largely precludes future designations of BLM wilderness in Utah; substantially alters the definition of wilderness; and may result in an unfair land exchange value between the United States and the State of Utah.

I am opposed to the hard release language the bill contains. If this bill were to become law, it would be the first of over 100 wilderness laws to contain hard release language. I agree that lands not included in this bill should generally be released to standard multiple use provisions, but I do not agree that BLM should be precluded from ever considering future wilderness designations on any of the other 20 million acres of public land in Utah. I believe the soft release language that the Bush administration supported is the appropriate route.

Even if these issues were resolved, I still have grave concerns stemming from the unique management and land exchange provisions. If this Utah wilderness bill were to become law, the Nation would effectively have two wilderness systems, Utah and the rest of the Nation. It would in effect result in a brand of wilderness that would be so different, that current BLM regulations, which are appropriate for all other BLM wilderness areas, would have to be substantially altered just to accommodate the unique provisions of this bill.

Most startling is the fact that it appears that the Secretary of the Interior would in Utah have less authority to control access in and around wilderness areas than nonwilderness areas. I repeat, it appears the Secretary would have less authority to control access in and around wilderness areas than nonwilderness areas. How can this be wilderness if it is less protected than other multiple-use lands?

One small example of nonconformity is the bill's special provisions for facilities within wilderness areas. Section 2003(d) provides:

Nothing in this title shall affect the capacity, operation, maintenance, repair, modification or replacement of municipal, agricultural, livestock, or water facilities in existence of the date of the enactment of this Act

There is no qualification to this paragraph. Conceivably, projects could be expanded without any regard to impacts to wilderness values. This is only one small example of the special provisions included in the language of this bill.

In the past, wilderness laws have generally deferred to the access provisions of the Wilderness Act of 1964. This practice provides a measure of consistency throughout the wilderness system. The proponents of this Utah wilderness bill have strayed so far from

the vision of the original framers of the Wilderness Act that an althernative type of wilderness would, in effect, be established. I do not support this establishment of an alternative version of wilderness.

Even if this bill did not contain these nonconforming provisions, I would still have concerns with the land exchange provisions that would provide a unique means to establish the value of Federal lands to be exchanged to the State of Utah. These provisions would give a significant advantage to the State of Utah that no other State has enjoyed in its wilderness bills.

I support passage of a Utah wilderness bill. However, I believe the bill must not preclude future designations of wilderness; substantially alter the definition of wilderness; nor result in unfair exchange values between the United States and the State of Utah.

Mr. FEINGOLD. Mr. President, I rise today to express my deep concerns about the inclusion of S. 884, the Utah Public Lands Management Act, into the omnibus parks package now before the Senate.

I believe that it is critically important to make my colleagues aware that this omnibus package is not simply a means to clear small measures on the docket of the Energy and Natural Resources Committee. Among its provisions is a measure which decides the fate of 22 million Federally owned acres of land in southern Utah. It designates a portion of the acres as wilderness and leaves vast areas free for development. This is one of the few times this session that the Senate will have the opportunity to engage in a dialog over what should happen to these and other Federal lands.

The Utah provisions contained in the measure currently before the Senate are controversial provisions. Both Utah and national newspapers have been a hotbed of debate over the question of how much wilderness to protect and the process used to develop the bill. I also know that many citizens in my State are deeply concerned about aspects of this bill which would fundamentally change the way the Federal Government will manage lands which all Americans own. Wisconsinites who care deeply about the Federal lands in Utah as well as Federal land policy in general have written to me and urge significant changes in this measure.

Mr. President, a major concern about the measure currently before the Senate relates to the hard release language in the Utah provision which affects the future ability of the BLM to designate additional acres in Utah which may need protection as wilderness. BLM is currently managing 3.2 million of the 22 million acres it holds in Utah as wilderness. The provisions of the substitute amendment relating to Utah would designate approximately 2 million acres as wilderness. They further require that any lands not explicitly designated by the bill as wilderness will be managed for multiple-use. Therefore, even if BLM finds in the future that these lands are sensitive and in need of protection, no additional lands could be designated as wilderness. The Senate has never passed a bill containing such language before, and such language is a significant departure from the tenets of the 1964 Wilderness Act.

The key protection wilderness designation offers the lands in southern Utah is protection from certain kinds of development—but not from the use of the lands. Activities allowed in wilderness areas are: foot and horse travel; hunting and fishing; backcountry camping; float boating and canoeing; guiding and outfitting; scientific study; educational programs; livestock grazing if it has already been established; control of wildfires and insect and disease outbreaks; and mining on preexisting mining claims.

Prohibited activities, according to the 1964 Wilderness Act include: use of mechanized transport except in emergencies, or such vehicles as wheelchairs; roadbuilding, logging, and similar commercial uses; staking new mining claims or mineral leases; and new reservoirs or powerlines, except where authorized by the President as being in the national interest.

The magnificence of the wildlands that are at stake in this debate cannot really be done justice in words, Mr. President. As my colleague from New Jersey, Mr. BRADLEY, has already shown the Senate, they include starkly beautiful mountain ranges rising from the desert floor in western Utah with ancient bristlecone pine and flowered meadows. Some areas are arid and austere, with massive cliff faces and leathery slopes speckled with pinyon pine and juniper trees. Other areas support habitat for deer, elk, cougars, bobcats, bighorn sheep, coyotes, birds, reptiles, and other wildlife. These regions hold great appeal to hikers, hunters, sightseers, and those who find solace in the desert's colossal silence.

These BLM lands are truly remarkable American resources of soaring cliff walls, forested plateaus, and deep narrow gorges. This region encompasses the sculpted canyon country of the Colorado Plateau, the Mojave Desert, and portions of the Great Basin.

Some in this body may think it strange that a Senator from Wisconsin would speak on behalf of wilderness in Utah. The issue of and debate over Utah wilderness protection, Mr. President, has been one of which I have been aware since the time I joined the U.S. Senate. Many of my constituents believe that the lands of southern Utah are the last major unprotected vestige of spectacular landforms in the lower 48 States—of the caliber of lands so many nationwide already hold dear, such as Yellowstone, the Grand Canyon, and the Arctic National Wildlife Refuge. I have received more constituent mail—over 600 pieces in all—from Wisconsin citizens concerned about wilderness lands in Utah, than I have on any other environmental issue in this Congress—including many critically important issues to my state such as clean water, safe drinking water, the protection of endangered species, and Superfund reform. A man from Menominee Falls, WI, writes about the lands of Utah:

> These resources are national treasures that make our country great, and once they are gone they are lost forever.

A woman from Beloit added in her letter:

> I live in Wisconsin but my real home is the natural world . . . most voters do not concur with the irrevocable destruction that would result from (this measure) becoming law. Please: do all you can to be a voice for wilderness—not only in Wisconsin but in the fragile and gorgeous West.

One of the most poignant testimonials came from an Eau Claire resident:

> I have not had a lot of experience writing letters to my elected representatives. However, it appears that the current priorities in Washington are shifting away from conservation towards a destructive, greed oriented approach, under the guise of economic growth and development of public lands. Given this climate, I feel I must write to express my opinion. I have had the opportunity to visit much of the West over the past 30 odd years on annual family vacations. This is truly a unique land without rival anywhere else in the world. My family and I have learned to love and respect this region and we feel that it must be protected in its natural form. I strongly urge you to oppose any compromise Utah lands bill that does not include a strong vision of conservation for future generations.

Mr. President, I read from some letters from Wisconsin residents because I think it is critical to understand that the importance of protecting these lands in Utah extends beyond the borders of that State. Many Americans enjoy and treasure this area, just as they do other great American wilderness areas and it is the responsibility of all members of the Senate to be concerned about the fate of this national treasure.

I have been personally touched by these appeals from residents of my State. In recognition of the importance of this issue to my constituents, on October 11, 1995 I circulated a small paperback book containing essays and poems by 20 western naturalist writers reflecting their thoughts on the protection of wilderness in Utah to all members of the Senate. The book, entitled "Testimony," was released on September 27, 1995. It is modeled after the late author Wallace Stegner's 1960 Wilderness Letter to the Kennedy administration, which was a critical benchmark document in the development and

eventual passage of the 1964 Wilderness Act. In his 1960 Wilderness Letter, Wallace Stegner said "something will have gone out of us as a people if we let the remaining wilderness be destroyed." Mr. President, those words are echoed and reverberated by these western writers as they describe the legislation now before the Senate and its affect on Utah.

The paperback was compiled during August 1995. The selections represent the opinions of the authors, written in direct response to the measure currently before Senate which would affect public lands management in Utah. The book includes writings by individuals such as: Terry Tempest Williams, Utah native and author of five books; T.H. Watkins, editor of Wilderness magazine; N. Scott Momaday, winner of the 1969 Pulitzer Prize for "House Made of Dawn"; and Mark Strand, former Poet Laureate of the United States. 1,000 copies of the book were printed for distribution on the Hill, and I now understand that the writers intend to release this work through Milkweed Press in Minnesota for the general public. The writers donated their work to produce this small booklet and the printing costs were covered by a donation from a nonprofit foundation.

I distributed this book because I felt that it was important for all members of the Senate to have a copy of this book to review in making a decision that so profoundly affects future of such a spectacular area.

One of the pieces in the Testimony book that most caught my attention, Mr. President, was a selection by Stephen Trimbell. Steve Trimbell is a writer and photographer who lives in Salt Lake City, and who was instrumental in working with Terry Tempest Williams to facilitate putting the Testimony book together. Those Senators who have been following the debate over the Utah Wilderness Act are already very familiar with Mr. Trimbell's handiwork. For several months, every Friday, photographs of the areas excluded from wilderness designation under the measure before us were dropped off in every Senator's office. Many of those "Friday pictures," as they have come to be known around my office, were taken by Trimbell. I wanted to share Steve Trimbell's words on this matter with the Senate. He writes:

My place of refuge is a wilderness canyon in southern Utah.

Its scale is exactly right. Smooth curves of sandstone embrace and cradle me. From the road, I cross a mile of slickrock to reach the stream. This creek runs year-round, banked by orchids and ferns. Entering the tangle of greenery, I rediscover paradise. The canyon is a secret, a power spot, a place of pilgrimage.

I found this canyon in my youth, twenty years ago. I came here again and again. I brought special friends and lovers. When my wife and I met, and I discovered that she knew this place, I felt certain that she knew a place deep within me, as well. My children are within a year of walking into the canyon on their own. I thrill to think of that first visit with them.

On those early trips, I rarely saw other people. Once, in the velvet light before dawn, I awoke, sat boldly upright. and looked past my sleeping bag into a lone ponderosa pine—a tree that brought the spicy scent of mountain forest to this desert canyon. A few seconds later, a great horned owl noiselessly landed on a branch and looked back at me with fierce eyes. The owl flew down canyon, searching for unwary mice. I lay back, fell asleep, and awoke again when the sun warmed me.

I bathed in plunge pools and waded along the stream, learning to pay attention, looking for reflections and leaf patterns and rock forms to photograph—details that I would not see if the canyon had not taught me how to look. Never before had I spent so much time alone on the land. Here, I matured, as a naturalist and photographer and human being.

This wilderness canyon made me whole. It can still restore me to wholeness when the stress of life pulls me thin. It bestows peace of mind that lasts for months.

People smile when they remember such particular places on Earth where the seasons and textures and colors belong to them. Where they know, with assurance and precision, the place and their relationship to it.

"This is my garden."

"This is our family beach."

"I know this grove like the back of my hand."

"I can tell you where every fish in this stream hides."

"I remember this view; it takes me back to my childhood."

These landscapes nourish and teach and heal. They help keep us sane, they give us strength, they connect us to our roots in the earth, they remind us that we share in the flow of life and death. We encounter animals in their native place and they look into our eyes with the amalgam of indifference and companionship that separates and unites us with other creatures. A garden can connect us with wildness. Wilderness connects us with our ancestral freedoms even more powerfully.

Recently, we visited a canyon new to us in the southern Utah wilderness, this time with urban cousins—two girls, seven and eleven. The younger girl spotted a whipsnake, a nesting Cooper's hawk, beetles, Indian paintbrush. We painted ourselves with golden cattail pollen and launched boats we wove from rushes and milkweed leaves. Taught never to walk alone in their city, here the girls forged ahead out-of-sight, exploring, appropriating power, gathering the dependable certainties of the wilderness, building emotional bedrock, new layers of confidence and self-esteem. Perhaps this canyon will become their canyon.

We need to preserve every chance to have such experiences, for ourselves, our children, and the grandchildren of our grandchildren.

For we have reached the end of the gold rush. This wild country is our home, not simply one more stop on the way to the next boomtown. Respect for our home, thinking as natives, begins in our backyards, with our children. We move outward from there to local parks, to preservation of greenbelts, and from there to big wilderness.

The wilderness canyons of Utah belong not to an elite cadre of backpackers, not to the cattle raising families of Escalante and Kanab, not to the Utah state legislature, not to the Bureau of Land Management. They belong to all citizens of the United States. In truth, they belong to no one. They are a magnificent expression of the powers of Earth, and we Americans hold Utah wilderness in trust for all humans and all life on our planet.

The truly conservative action becomes clear: to preserve as many wildlands as possible for future generations rather than to fritter them away in casual development without even noticing. A Utah wilderness bill with too little land preserved and too many exceptions for development is unacceptable, destroying irreplaceable wild places for the short-term wealth of the few.

Every year our wildlands shrink. We must act now, decisively, boldly. To save my canyon. Their canyon. Your canyon.

We must preserve the wholeness of wild places that belong to everyone and to no one. In doing so, we demonstrate our trustworthiness—our capacity to take a stand on behalf of the land. On behalf of the canyons. Our canyons.

That short piece of writing is so powerful, Mr. President, because it is a timeless statement about how people feel about natural places. For myself, I personally know the value of wild areas. For the last 9 years, I have spent my summer vacations on Madeline Island, immediately adjacent to the Apostle Islands National Lakeshore in northern Wisconsin. I have always found the quiet beauty of the Apostle Islands refreshing and invigorating. The Apostle Islands are not a place the people in Wisconsin go for high-tech hubbub; it is a place where people go to experience nature's beauty.

I want to recount a story, one perhaps several of members of the Senate may remember, from 1967, when the Senate Subcommittee on Parks and Recreation held hearings on Senator Gaylord Nelson's plan to create the Apostle Islands National Lakeshore.

A man named John Chapple, a newspaperman from Ashland, WI, testified at those hearings. Mr. Chapple, who spent much of his life around the Apostle Islands, related the story of a time when he and his 10-year-old son were out in a 14-foot motorboat on the waters around the Apostle Islands:

On one occasion, the water was very rough, and I pulled our little boat onto a sand beach so I could put some more gas in the motor.

Three men came walking out. "Don't you know this is a private beach?" they said. "You are not supposed to land here."

That stung, and it still stings.

Twenty-five men with fortunes could tie the Apostle Islands up in a knot and post "keep out" signs all over the place.

The beauty that God created for mankind would not be available to mankind anymore.

These islands, with their primeval power to truly recreate, to reinvigorate, to inspire mankind with a love of peace and beauty . . . must be preserved for all the people for all the time and not allowed to fall into the hands of a few.

When the Senate acted to protect this area of northern Wisconsin, they heard the voices of Wisconsinites like

Mr. Chapple who knew the value of peace and beauty and of preserving our natural heritage. Though those words were spoken by man nearly 20 years ago, about an entirely different landscape, they almost sound like an addendum to Steve Tribell's story about southern Utah canyons, which is included in a new testimony.

In places like the Apostle Islands and southern Utah, Wisconsinites have found opportunities to develop a consciously sympathetic relationship to the rest of the world, so that we may better live in it. These natural places are a confluence for the things we value in Wisconsin.

The parallels between the Apostle Islands in my State and southern Utah, interestingly go even further than the emotions that these landscapes evoke among the people of my State. Along the Apostle Island National Lakeshore's shoreline there are the wonderful rust colored sandstone cliffs. These sandscapes serve as staging areas for birds following their ancient paths of migration in the spring and fall. Of similar appearance and construct to the landscapes of southern Utah, these cliffs are particularly impressive this time of year now that they are covered with ice. The February 28, 1996, edition of the Minneapolis Star-Tribune ran a wonderful article about these red cliffs covered in ice that states:

> Frozen waterfalls hide a labyrinth of nooks and crannies that kids climb through and slide down like some frozen playland. "Awesome" is the word muttered by many visitors to the sea caves sculpted by centuries of wind and water at Apostle Island National Lakeshore near Bayfield.

In the case of the Apostle Islands, how did the Senate respond, Mr. President? And what does it tell us about the stewardship and attention we should pay here in the Senate to southern Utah. In 1967, Senator Nelson was leading the effort that led to President Nixon's signing, on September 26, 1970, of the legislation that established the Apostle Islands National Lakeshore—only a few months after the first Earth Day.

Many of my constituents are concerned that perhaps there isn't that kind of momentum in this body any more. As their letters reflect, they believe that there is a concerted campaign to undermine landmark environmental legislation, such as the Clean Water Act, and to curtail or end the Federal role in protection of endangered species and their habitats. They express frustration that the Senate is responding to efforts to persuade Americans they cannot afford further environmental protection, that the idea of protecting our natural heritage is somehow an affront to the American ideal of rugged individualism.

As we consider this measure we must be mindful of Wallace Stegner's words I quoted earlier, of the need to act carefully on these issues in community and with sympathy and responsibility for our place in the great scheme of things.

I feel that it is exceedingly important to be actively engaged in discussing alternatives for the management of significant resources such as these. I urge my colleagues to be committed to do so in Utah, and I urge them to oppose the inclusion of the Utah measure in this Omnibus package.

The Utah wilderness provisions in the legislation now before the Senate has several major weaknesses.

The first major concern is the "under protection" of areas that are suitable for wilderness designation. The bill would protect only 2 million acres in contrast to the 5.7 million protected in a competing bill, H.R. 1500, introduced in the House of Representatives and the 3.2 million acres currently being managed by BLM as wilderness pending congressional designation.

Mr. President, as other Senators have discussed, the review of public lands in Utah to determine their wilderness potential has had a long and contentious history. The BLM's initial inventory of this area to implement the 1976 Federal Land Policy and Management Act, known as FLPMA, identified 5.5 million acres of land as having potential wilderness values. Subsequent stages of that process resulted in 2.6 million acres of land being designated as wilderness study areas [WSA's] a designation which is a precursor to wilderness designation. Utah environmental interests challenged the 2.6 million designation, urging that about 700,000 acres be reinventoried. That additional study by BLM ultimately provided WSA status to 3.2 million acres—the management situation under which BLM is currently operating.

Controversies over the inventory have resulted in disagreement over how much wilderness to designate in Utah. Concerns over BLM's survey lead citizen groups to continue to conduct field based research to determine the wilderness values of other sensitive areas. These citizen group surveys lead to the development of alternative legislation to the proposal included in the omnibus package, which has been introduced in the other body by a Representative from New York, [Mr. HINCHEY]. That legislation, H.R. 1500, America's Red Rock Wilderness Protection Act, would set aside 5.7 million acres of land as wilderness—even more than the BLM is currently protecting as WSA's.

In addition to current congressional proposals, there have been previous administrative attempts to resolve the wilderness question in Utah. In 1991, the Bush administration recommended to Congress that 1.9 million acres be protected as wilderness. The proposal before us today has a similar acreage figure, only it recommends designation for different areas. However, the Interior Department now believes that more areas deserve wilderness designation.

In her testimony on behalf of the Department before the Energy and Natural Resources Committee this past December, Silvia Baca, Deputy Assistant Secretary, Land and Minerals Management for the Department of the Interior stated:

> We are sure other areas, both inside and outside existing WSAs, deserve such (wilderness) status.

I would remind Members of the Senate of the position taken by the Bush administration does not bind us as we consider the fate of this area, particularly given, as Ms. Baca also stated in her testimony, that:

> 1.9 million acres is inadequate to protect Utah's great wilderness.

The second area of concern is the fact that the lands in Utah designated as wilderness in this amendment would be required to be managed in a manner inconsistent with the Wilderness Act. In short, the meaning of "wilderness" designation would be significantly altered in this bill for these lands. The legislation is full of these exceptions to standard wilderness management protocol.

For example, under section 2002 of the amendment, roads would have to be maintained to a much greater extent than is provided for in the Wilderness Act. Access by cars, motorcycles, trucks, sport utility vehicles, and heavy equipment is guaranteed at any time of the year for water diversion, irrigation facilities, communication sites, agricultural facilities, or any other structures located within the designated wilderness areas. This type of unrestricted vehicular use is currently not allowed on lands now managed by BLM, or on many other parcels of Federal land, regardless of whether or not they are designated as wilderness. Creating an exemption to allow such activities within wilderness areas raises the question, Mr. President, what is the purpose of extending a special designation such as "wilderness" if we do so with so many holes that the designation is essentially meaningless or that the lack of such a designation would actually be more protective. As I said before, this bill would allow activities in a federally designated wilderness that would not be permitted on other nonwilderness Federal lands.

Another example of the way this legislation would undermine the management of wilderness areas is included in section 2006 on military overflights. This section includes special language preempting the Wilderness Act and permitting low level military flights and the establishment of new special use airspace over wilderness areas. This language sets a precedent for allowing such activities, precedent which is of great concern to the citizens of my

State. I have been involved, along with concerned Wisconsin citizens, in monitoring the recently proposed expansion of low level flights by the Air National Guard in Wisconsin. The path of these low level flights would cross extremely ecologically sensitive areas in my State, and the existence of those areas has been instrumental in forcing the National Guard to take a more careful look at the planning of any such flights.

The third area of concern, which I highlighted earlier in my remarks, is the hard release language. This language, if enacted, would set an unacceptable precedent for the National Wilderness system. None of the more than 100 wilderness bills already enacted into law contains such language. In the past, moreover, hard release has been proposed only for lands formally studied by a Federal agency for designation as wilderness but released from the WSA study status by Congress. The language in this amendment goes even further, Mr. President, it applies to all the 22 million acres of BLM lands in Utah not just the 3.2 million WSA acres.

The final area of concern is the land exchange embodied in the Utah wilderness portion of this bill. This legislation mandates that State lands within or immediately adjacent to designated wilderness areas be exchanged for certain areas now owned by BLM. Some lands to be exchanged are explicitly designated in this legislation, such as the 3,520 acres that would be given to the Water Conservancy District of Washington County, Utah for the construction of a reservoir. Other areas are not explicitly designated. The State is allowed under this measure to choose from a pool of Federal lands in different areas. As others have discussed, the Dutch-owned mining company, Andalex Resources is currently moving through the Federal permitting process to develop a coal mine on lands which the State is interested in acquiring. This exchange has significant fiscal consequences.

First, the Interior Department believes the lands not to be of approximately equal value. More importantly, should the lands have been permitted for mining under Federal ownership, the taxpayers would receive the return for all such mining activities. CBO determined that the net income to the Federal Government of the lands being transferred to the State of Utah would amount to an average of almost $500,000 annually over the next 5 years, or approximately $2.5 million in Federal receipts. In contrast, the Federal receipts anticipated from the lands being traded to the Federal Government in exchange would amount to about $33,000 per year or a mere $165,000 over the same period. In comparative terms, Mr. President, for every $1 that the Federal Government gives in the lands it exchanges with Utah it only gets back 7 cents.

All of these concerns, Mr. President, have led the Secretary of the Interior, Mr. Babbitt to announce on March 15, 1996 that he would recommend that the President veto this omnibus package unless the Utah provisions were removed. That is a step that the Senate should take. If the Utah provisions remain in this bill as currently drafted, the bill deserves not only a Presidential veto, but a condemnation from every American who cares about protecting our natural resources.

WELFARE AND MEDICAID

Mr. KYL. Mr. President, I want to comment briefly this morning on welfare and Medicaid, because the majority leader has indicated that these are going to be two of his priorities after the recess. We are going to bring these bills to the floor in an effort to get them passed yet again and to get them signed by the President.

It seems we are in a campaign mode now. Everyone is focused on the Presidential election. It does not seem like it was just 4 years ago that President—candidate then—Bill Clinton was going around the country saying we need to end welfare as we know it. People might ask what has happened in the last 4 years? The President seemed to be committing himself to ending welfare as we know it. Yet, during the first 2 years of his administration, when the Democrat Party controlled the House and Senate, nothing was done. When Republicans finally came in and it was part of the Contract With America, however, something did get done. We passed bills for welfare reform, and they not only reformed the essence of the welfare program to put more focus on people working, on providing incentives to families, and to reducing the costs of welfare, but also returned much of the decisionmaking to the States under the theory that the States and local governments would have more connection with the specific people on welfare and would know better how to run the programs for the benefit of the people in their individual States.

We, therefore, passed a Balanced Budget Act that included significant welfare reform and sent that bill to the President on November 17. He vetoed the bill on December 6 and said that he wanted a different welfare bill. So we sent him another welfare bill. This time the Senate voted on a separate welfare bill, and the vote was 87 to 12. That is about as bipartisan as you can ever get in the U.S. Senate. Yet the President rejected that as well. In fact, in his State of the Union speech he said, "I will sign a bipartisan welfare bill if you will send it to me." We have already done that by a vote of 87 to 12. Democrats and Republicans alike understood the need for real welfare reform, and we sent that to him. But it still was not good enough.

So, the Nation's Governors got together, Democrats and Republicans, and unanimously agreed on welfare reform and on Medicaid reform, which I will speak to in just a moment. Initially, it seemed like we had an opportunity, not only to get the legislation passed through the House and Senate—that would be fairly easy—but to get the President to sign it, which is required in order for it to become law. But now, once again, it appears the President will not take yes for an answer, or he got cold feet or something, because now Secretary Shalala, for example, is saying she does not really like the idea of a block grant.

As everybody knows, the block grant is fundamental, it is essential, it is the central point here of our Medicaid and welfare reform. In other words, instead of having Washington decide what to do, we send the money directly back to the States for them to make the decision how best to operate the program in their State with a few general national guidelines, the rest of the decisions being made at the State level. So, once again, we proposed a specific idea, this time with all of the Nation's Governors in support. The administration is still saying no. It makes you wonder whether this President is really committed to welfare and Medicaid reform. Will we, in this Presidential campaign, once again be debating an issue that was debated 4 years ago, about which we all thought we were in agreement?

Let me quickly turn to Medicaid because the majority leader also indicated that he thinks, and I agree, that we need to have these two issues both sent to the President for reform because they both involve the same general element of return of control to the State. Medicaid is growing at roughly 10 percent annually. This is the program of health care for our indigent citizens. Obviously, without reform, that program is going to be in trouble. As a matter of fact, the Federal Government will spend over $1 trillion between 1995 and the year 2002 on Medicaid. Without reform, the States will spend $688 billion of their own money on Medicaid between 1996 and the year 2002. This represents 8 percent of the States' non-Federal revenue and an increase of 225 percent between 1990 and the year 2002. Obviously, this system must be reformed.

The legislation that we put together recognizes that there is a need for Federal support, there is a need for Federal standards, but the States can run these programs. My own State of Arizona was the first to get a waiver and, from the very beginning, it ran a program it calls ACCESS, which provides medical services to the poor and has done so at a cost that the State of Arizona could afford.

The bottom line of the reform that we have put together on Medicaid—and here, again, the Governors have been in agreement on this—is that the program will continue to grow, but just not as fast as it has in the past, because the States would be given more latitude to run the programs on their own.

Total Federal and State spending of Medicaid under these programs we have designed would, over the next 7 years, be at least $1.36 trillion. The Federal portion of this amount would exceed $780 billion. Federal spending for Medicaid would increase at an average annual rate of 5 percent, between 1996 and the year 2002. It would grow from just over $157 billion in 1995 to at least $220 billion in the year 2002, which represents an increase in spending of more than 40 percent, Mr. President. That is not a cut, lest anybody suggest that it is.

The key, as I said, is to allow the States greater flexibility to restructure the benefits of Medicaid to suit their own State's beneficiaries. Again, the National Governors Association has reached an agreement on Medicaid as well as on welfare.

The point of our comments this morning is to try to stress the fact that the Congress has been willing, the Nation's Governors and legislatures have been willing, but there is only one person who stands in the way of Medicaid and welfare reform. His name is Bill Clinton. He is the President of the United States. He said he was for reforming these two programs when he ran for President 4 years ago. But it has been 4 years and nothing has happened and nothing did happen until Republicans gained control of the House and Senate.

It should be very clear to our colleagues and the American people, this Republican Senate and the Republican House, the Nation's Governors, and many of our Democratic friends in the House and Senate are in agreement on what needs to be done. Will the President of the United States get that message before this next Presidential campaign? If he does not, my suggestion is that the American people will send that message loud and clear, because we should not have to wait until 1997 to reform welfare and Medicaid.

UNANIMOUS-CONSENT AGREEMENT—H.R. 1296

Mr. KYL. Mr. President, on behalf of the leader, I ask unanimous consent that the quorum be waived with respect to the cloture vote this morning on the Murkowski substitute amendment; and further, that Senators have until 10:30 this morning in order to file second-degree amendments to the substitute in accordance with rule XXII.

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

Mr. KYL. Finally, Mr. President, on behalf of the leader, to simply announce that Senators should be alert that the cloture vote will be at approximately 10:30 this morning.

Mr. COVERDELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia.

AMERICANS CONDEMNED TO FUTURES WITH NO HOPE

Mr. COVERDELL. Mr. President, I want to echo and underscore the remarks of my good colleague from Arizona. I do not know of any issue in the country for which there is more unanimity or agreement than the current status of our welfare programs. You can go to any community, any State, any region, any city, and, as I said, there is a unanimity that this program has failed.

Sometimes in the discussions, we fail to acknowledge what that means. What that means is that hundreds of thousands of Americans have been condemned to stunted futures with no hope, no real education, no real prospect for opportunity in a life as we have come to know to be synonymous with being an American.

You can do anything as long as it is different and it would be better. Every statistic that we have endeavored to improve with these massive welfare programs, with the exception of one piece of data, is worse today and not just a little worse, but dramatically so. Every condition of the target of the welfare programs is worse, not better. We have higher teenage pregnancies, we have more single-member households, we have less scores in our education programs. It is all worse.

What makes it even more difficult to comprehend is that we have spent more of the Treasury of America on the War on Poverty than we spent on the Second World War, the First World War, Vietnam, Korea, and the Persian Gulf combined. We, essentially, prevailed on those battles, but we have lost the war on poverty. That means that there are millions of Americans today for whom the future is bleak, and we owe our fellow citizens more than this condemnation that we have created in our own country.

To put in context a response, a contemporary response, the President of the United States went to the American people in 1992 and, in his successful bid for the Presidency, said, "This condition must stop. This condition must come to an end. Welfare as we know it will not continue."

He was elected President. He had a majority in the House and the Senate, and in the 103d Congress, the Clinton Congress, nothing happened. Welfare, as we know it, is as it is—unchanged.

Then we come to the 104th Congress and this new majority, and an extensive Welfare Reform Act was passed in the House and in the Senate and sent to the President, the President who had promised the American people that he would end welfare as we know it. Instead, what he ended was welfare reform in the dark of the evening when he vetoed the Welfare Reform Act, which he has now done twice.

So you have to begin to get the picture that if you did not do anything when you were in charge of the Congress and then you vetoed welfare reform twice subsequently, there may be a lack of interest in true welfare reform.

He is running political advertising as we speak today in the Nation's capital, and that advertising says that he is for welfare reform. I only suggest to the American people, at least to this point, there is a massive difference between the rhetoric and the words of the campaign and the actions and the deeds of governments, because we are today going into the final year of this administration, and there is no welfare reform, there is only a record of blocking and stopping.

The bill that went out of the Senate had over 80 votes, Republican and Democrat. He claimed it should be bipartisan. It was, but still vetoed, stopped.

At the end of the day—and I am going to yield in a moment to the Chair—at the end of the day, this is all about American citizens. I do not think history is going to look very kindly on America for what it did to these people across our land, mostly in our large cities. They are virtual ghettos, prisons from which escape is almost impossible, and that should guide our actions. These programs should be changed if we care about our fellow citizens.

Mr. President, I yield the floor. I will be able to take your post for a moment. I know you want to make some remarks as well.

Mr. INHOFE addressed the Chair.

The PRESIDING OFFICER (Mr. COVERDELL). The Chair recognizes the Senator from Oklahoma.

GETTING OUT FROM UNDER THE REDTAPE OF THE FEDERAL GOVERNMENT

Mr. INHOFE. Mr. President, a few weeks ago, the freshman class of the U.S. Senate made a trip around the United States to talk to different groups, different gatherings. We went all the way from Philadelphia to Knoxville, to Minneapolis, to Cheyenne, WY. One of the things we talked about, probably more than anything else, was welfare reform, changing the system as we have come to know it since the 1960's.

The Senator from Missouri, Senator ASHCROFT, was with us during this. He came up with some evidence from the State of Missouri that I thought was

quite remarkable. He was talking about the administration of the Medicaid program, how they have been able to file and get out from under the redtape of the Federal Government. The year prior to their being able to administer the Medicaid Program with the amount of money that they had, they reached some 600,000 families throughout the State of Missouri. The next year, or the year following the year that they were able to take over the total jurisdiction and control and administration and come out from under the redtape of the Federal Government—and this was done, I might add, under a Democrat administration, a Democrat director of the department of human services for the State of Missouri—they were able to use that same amount of money and reach 900,000 families. In other words, 50 percent more services were given to families just by eliminating the unnecessary trip and expense and redtape of the Federal Government.

I believe it has been our policy to get as many of these things back to the local level. Having served myself in the State legislature, having served as a mayor of a major city, Tulsa, OK, for three terms, I can tell you that the closer you can get to the people at home, the better a program will be administered.

On welfare, we spent some time looking at the welfare system. The President of the United States, when he ran for President, when Bill Clinton ran for President of the United States, he had a pretty good welfare reform system. In fact, the welfare reform system that he advocated during the time that he ran for President of the United States had work requirements, had elements in it that were precisely the elements of the welfare reform package that passed the House of Representatives and then passed the Senate by a vote of 87 to 12. It was a shock to everyone, even on his own side of the aisle where 60 percent of the Democrats voted to support this, when he came out and vetoed it. I would like to think that America woke up during the demagogy of the Medicare reform. I know that many——

The PRESIDING OFFICER. The Chair notifies the Senator that his time has expired.

Mr. INHOFE. Mr. President, I ask unanimous consent for 1 additional minute.

The PRESIDING OFFICER. Is there objection?

Mr. BRADLEY. One minute.

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

Mr. INHOFE. Mr. President, let me just comment that many editorial writers around the country that normally are more of a liberal persuasion came out and editorialized in favor of the Republicans and the fact that we recognized that we have a system that was going into bankruptcy. I ask unanimous consent that these be printed in the RECORD, the two editorials from the Washington Post that made this very clear. The names of the editorials are "Medagogues" and "Medagogues, Cont'd."

The last sentence of the second editorial reads, "The Democrats have fabricated the Medicare-tax cut connection because it is useful politically. It allows them to attack and duck responsibility, both at the same time. We think it's wrong." And America thinks it is wrong.

There being no objection, the editorials were ordered to be printed in the RECORD, as follows:

[From the Washington Post, Sept. 18, 1995]

MEDAGOGUES

Newt Gingrich and Bob Dole accused the Democrats and their allies yesterday of conducting a campaign based on distortion and fear to block the cuts in projected Medicare spending that are the core of the Republican effort to balance the budget in the next seven years. They're right; that's precisely what the Democrats are doing—it's pretty much all they're doing—and it's crummy stuff.

There's plenty to be said about the proposals the Republicans are making; there's a legitimate debate to be had about what ought to be the future of Medicare and federal aid to the elderly generally. But that's not what the Democrats are engaged in. They're engaged in demagoguery, big time. And it's wrong—as wrong on their part now as it was a year ago when other people did it to them on some of the same health care issues. Then, they were the ones who indignantly complained.

Medicare and Medicaid costs have got to be controlled, as do health care costs in the economy generally. The federal programs represent a double whammy, because they, more than any other factor, account for the budget deficits projected for the years ahead. They are therefore driving up interest costs even as they continue to rise powerfully themselves. But figuring out how to contain them is enormously difficult. More than a fourth of the population depends on the programs for health care; hospitals and other health care institutions depend on them for income; and you cut their costs with care. Politically, Medicare is especially hard to deal with because the elderly—and their children who must help care for them to the extent the government doesn't—are so potent a voting bloc.

The congressional Republicans have confounded the skeptics who said they would never attack a program benefiting the broad middle class. They have come up with a plan to cut projected Medicare costs by (depending on whose estimates you believe) anywhere from $190 billion to $270 billion over the seven-year period. It's true that they're also proposing a large and indiscriminate tax cut that is a bad idea and that the Medicare cuts would indirectly help to finance. And it's true that their cost-cutting plan would do—in our judgment—some harm as well as good.

But they have a plan. Enough is known about it to say it's credible; it's gusty and in some respects inventive—and it addresses a genuine problem that is only going to get worse. What the Democrats have instead is a lot of expostulation, TV ads and scare talk. The fight is about "what's going to happen to the senior citizens in the country," Dick Gephardt said yesterday. "The rural hospitals. The community health centers. The teaching hospitals. . . ." The Republicans "are going to decimate [Medicare] for a tax break for the wealthiest people, take it right out of the pockets of senior citizens. . . ." The American people "don't want to lose their Medicare. They don't want Medicare costs to be increased by $1,000 a person. They don't want to lose the choice of their doctor."

But there isn't any evidence that they would "lose their Medicare" or lose their choice of doctor under the Republican plan. If the program isn't to become less generous over time, how do the Democrats propose to finance it and continue as well to finance the rest of the federal activities they espouse? That's the question. You listen in vain for a real response. It's irresponsible.

[From the Washington Post, Sept. 25, 1995]

MEDAGOGUES, CONT'D

We print today a letter from House minority leader Richard Gephardt, taking exception to an editorial that accused the Democrats of demagoguing on Medicare. The letter itself seems to us to be more of the same. It tells you just about everything the Democrats think about Medicare except how to cut the cost. That aspect of the subject it puts largely out of bounds, on grounds that Medicare is "an insurance program, not a welfare program," and "to slash the program to balance the budget" or presumably for any purpose other than to shore up the trust fund is "not just a threat to . . . seniors, families, hospitals" etc. but "a violation of a sacred trust."

That's bullfeathers, and Mr. Gephardt knows it. Congress has been sticking the budget knife to Medicare on a regular basis for years. Billions of dollars have been cut from the program; both parties have voted for the cutting. Most years the cuts have had nothing to do with the trust funds, which, despite all the rhetoric, both parties understand to be little more than accounting devices and possible warning lights as to program costs. Rather, the goal has been to reduce the deficit. It made sense to turn to Medicare because Medicare is a major part of the problem. It and Medicaid together are now a sixth of the budget and a fourth of all spending for other than interest and defense. If nothing is done those shares are going to rise, particularly as the baby-boomers begin to retire early in the next century.

There are only four choices, none of them pleasant. Congress can let the health care programs continue to drive up the deficit, or it can let them continue to crowd out other programs or it can pay for them with higher taxes. Or it can cut them back.

The Republicans want to cut Medicare. It is a gutsy step. This is not just a middle-class entitlement; the entire society looks to the program, and earlier in the year a lot of the smart money said the Republicans would never take it on. They have. Mr. Gephardt is right that a lot of their plan is still gauzy. It is not yet clear how tough it will finally be; on alternate days you hear it criticized on grounds that it seeks to cut too much from the program and on grounds that it won't cut all it seeks. Maybe both will turn out to be true; we have no doubt the plan will turn out to have our other flaws as well.

They have nonetheless—in our judgment—stepped up to the issue. They have taken a huge political risk just in calling for the cuts they have. What the Democrats have done in

turn is confirm the risk. The Republicans are going to take away your Medicine. That's their only message. They have no plan. Mr. Gephardt says they can't offer one because the Republicans would simply pocket the money to finance their tax cut. It's the perfect defense; the Democrats can't do the right thing because the Republicans would then do the wrong one. It's absolutely the case that there ought not to be a tax cut, and certainly not the indiscriminate cut the Republicans propose. But that has nothing to do with Medicare. The Democrats have fabricated the Medicare-tax cut connection because it is useful politically. It allows them to attack and to duck responsibility, both at the same time. We think it's wrong.

Mr. BRADLEY addressed the Chair.

The PRESIDING OFFICER (Mr. INHOFE). The Chair recognizes the Senator from New Jersey.

Mr. BRADLEY. Mr. President, I thank the Chair.

PRESIDIO PROPERTIES ADMINISTRATION ACT

The Senate continued with the consideration of the bill.

Mr. BRADLEY. Mr. President, I would like to, if I could, get a few housekeeping measures out of the way. First, so that the RECORD can clearly reflect who is doing what to the bills that are before us at this moment, this is a bill that contains 33 titles. Every Senator should know that the Senator from New Jersey would not oppose moving 30 of those titles now, pass them by voice vote. I do not oppose them. I do not have holds on them. They can be moved now. If they are not moved now, someone does have a hold on them. It is not me.

I also make the other point that the distinguished chairman alluded to saying that these bills in this package have been on the calendar for over a year. Well, maybe some of them have been, not all of them. Indeed, there are some bills in this package that have not even been reported from the Energy Committee. There was no vote in the Energy Committee on at least 6 or 7 or 8 of these bills. They were added on the floor into this big package without them ever being reported out of the Energy Committee or having a hearing in this Congress. Some had a hearing in the last Congress, so that is not a big deal. They should be reported out of the committee, but they were not.

The other point is, the Senator from New Jersey has indeed not held all bills. The distinguished Senator from Alaska alluded to the fact that a bill that he was very interested in moved without any problem. So let us get that housekeeping matter out of the way first. We could move almost 30 titles by voice vote.

Let us get to the real issue here, which is the Utah wilderness bill, which is one of the titles, which is the title that I strongly oppose. Why do I oppose this? This is the most important public lands bill since the Alaska land bill of 1980. This is the most important public land bill since the Alaska bill over 15 years ago.

What are we talking about here? We are talking about declaring a part of Utah wilderness. There are two areas in question. One is the basin and range area. That is that vast area west of Salt Lake City, an area of salt flats and small mountain ranges. The writer John McPhee says that "Each range here" in the basin range "is like a warship standing on its own, and the Great Basin is an ocean of loose sediment with these mountain ranges standing in it as if they were members of a fleet without precedent." So one of the areas we are talking about is this unique area, basin and range.

The other area we are talking about is the great Colorado Plateau in southern Utah. The part of Utah that Harold Ickes, the first Secretary of the Interior during the administration of Franklin Roosevelt, said almost the whole part of Utah should be a national park, that almost the whole part of that southern part of Utah should be a national park.

It is a vast plateau and canyonlands of incredible beauty, vast plateaus like the Kaiparowits Plateau or the Dirty Devil Wilderness, some of the most remote and rugged landscapes in the West. Yet some of the most interesting records of those who inhabited this land before America—before Europeans ever came to the United States—are also located in this section of Utah, and the remains of the great Anasazi, who were here long before the first European set foot on this continent. All of this vast beauty is in southern Utah.

It is a genuine wilderness: Remote, rugged, deep-cut canyons that are sandstone cut, with deep rivers. It is the place of Zion and Bryce and Canyonlands. It is unique. It deserves wilderness designation.

We now have before the Senate the Utah wilderness bill. What is the problem with the Utah wilderness bill? Well, too little land is protected as wilderness; and too few protections are given to that land. In addition, the inventory process, the process by which the Bureau of Land Management determined which areas should qualify as wilderness, was flawed from the beginning.

In the State of Utah, there are 22 million acres under the control of the Bureau of Land Management. Under the bill before the Senate, 2 million of these acres—2 million of those acres—will be set aside as wilderness. That is all, 2 million acres.

Now, there are too few protections, as well. Just take the vast Kaiparowits Plateau, a plateau of juniper forests, trees that have been there long before the first European set his foot forth on the United States. It is a vast wilderness, one of the most vast wildernesses in the lower 48 States. Under this bill, about 50,000 acres of that plateau will be transferred to the State of Utah, an area for which a Dutch company is already negotiating to put a gigantic coal mine—a gigantic coal mine—in the heart of that wilderness.

What about Dirty Devil? There, of course, the area that is excluded will be set aside for tar sands development. The legislation also would allow new dams, called reservoirs, new dams. One thought that in the Colorado Plateau this issue was settled in the 1960's when the dams that were proposed at Dinosaur Monument were defeated because the people of this country realized that this incredible beauty, silence and time standing still needed to be protected, should not be blocked by a dam with another lake going up the Canyonlands and destroying both the record of human habitation and the possibility of walking in the Canyonlands.

What else? Well, roads and motor vehicles are allowed to an unprecedented extent in areas which are wilderness. Also, you give the State the right to designate which areas it wants without regard to environmental sensitivity, and with great concern that the lands that the Federal Government would exchange with the State will not be of equal value. In fact, in the Interior Department's comment on this bill, as embodied in the report, the Deputy Assistant Secretary for Land and Minerals Management, Sylvia Baca, says the following:

"The tracts proposed to be obligated by the State have high economic value for mineral, residential, and industrial development. The fair market value of these lands may be 5 to 10 times more than the value of the lands that would be transferred to the Federal Government. Despite the imbalance in favor of State, the bill provides for increased compensation to the State if encumbrances on Federal lands being transferred result in an imbalance, but not the other way around. This would only add to the inequality of values in this proposed exchange.

Mr. President, if the coal mining development is not enough, if the tar sands development is not enough, if the oil exploration is not enough, the new dams are not enough, if the roads and motor vehicles are not enough, if the kind of unequal value trade between State and Federal Government is not enough, what about this provision in the bill that sets aside the 2 million acres for wilderness, but attaches no water right to this wilderness land? These are areas that get 10 to 12 inches of rain a year—not much. What happens if that water is diverted, is used in another way, and does not get to the wilderness? Whatever fragile life is there dies, and it is over.

In Nevada, a State not totally dissimilar, not nearly as dramatic in some of its beauty as southern Utah, but still a remarkably beautiful State with a very similar topography, when the Nevada wilderness bill passed, the authors of that bill made sure that there

was water attached to that wilderness so that you would not have a wilderness, essentially, destroyed.

Finally, in terms of objections to the bill, there is a so-called hard release language. Now, the release language, which basically means when you do a wilderness bill you release lands, lands that are not wilderness, but you do not release them forever and ever, because at some other point you might want to consider whether they are wilderness. The bill as originally drafted said that the land should be managed for nonwilderness multiple uses only—that was dropped—and a substitute was offered that said "the full range of uses."

However, the existing amendment, the existing section of the bill, also says that "lands released shall not be managed for the purpose of protecting their suitability for wilderness designation." This is a kind of belt and suspenders approach. The previous version of the bill as reported out had both belt and suspenders, two protections against further wilderness designation. The current version got rid of the suspenders but leaves the belt. It is still unprecedented in wilderness bills.

Mr. President, these are all serious flaws with this bill that need to be addressed that might be able to be addressed. The flawed process is what makes me doubtful.

Just a brief recapitulation: in 1964 the wilderness bill passed. What was the definition of wilderness in a 1964 bill? "A wilderness, in contrast with areas where man in his own works dominate the landscape, is hereby recognized as an area where the earth and the community of life are untrammeled by man and where man himself is a visitor who does not remain." That was the definition of wilderness.

In 1976, that was applied to Bureau of Land Management lands about 280 million acres nationwide. And in 1976, 1977, the Bureau of Land Management was given 15 years to identify which areas under its control would qualify for wilderness, possibly, to inventory possible wilderness areas. But do you know what happened in Utah? In Utah, they completed it in 1 year. They inventoried all 22 million acres controlled by the Bureau of Land Management. At the end of that year, they eliminated 20 million acres for consideration as wilderness.

What was the basis upon which they eliminated these 20 million acres? It was that they lacked outstanding opportunities for solitude or primitive recreation. That is why they were eliminated. In the fall of 1980, a representative of the Sierra Club toured a section of the Kaiparowits Plateau with the Utah BLM Director, Gary Wicks. Their helicopter touched down on the southern tip of Four-Mile Bench, which is part of the plateau. She says:

> We stood on the edge of as far as the eye can see. Incredibly beautiful, utterly wild land. And I would say, "Gary, why are you eliminating this from wilderness?" And he would say, "Because there are no outstanding opportunities for primitive recreation." And I would say, "And there are no outstanding opportunities for solitude either?" And Gary would say, "You are right. You can have solitude here, but it is not outstanding solitude.' And the man kept a straight face while he said that.

She concludes by saying, "If the helicopter left us there, we would have known what outstanding solitude was all about," because she would have been left in this vast wilderness, one of the most rugged areas of America. But it was on the basis that these lands did not provide sufficient solitude that they were eliminated from wilderness designation. That flies in the face of virtually everything.

Well, when only 2.6 million acres were set aside out of the 22.5 million acres, under the control of BLM, and only 2.6 were set aside, a lot of Utah people got very upset. They filed petitions and they filed briefs; they had 30 days in which to do that. And because of their efforts, it included 3.2 acres for wilderness. And since then, that is the amount of land in Utah today that had been managed as wilderness; 3.2 million acres are now being protected as if they were wilderness.

In 1991, BLM came up with its final suggestion—1.9 million acres. The Utah congressional delegation introduced its bill, which was 1.8 million. Two days ago on the floor, they modified it to 2 million acres. Well, there was another group of Utah residents that said this was kind of a hurried process, with helicopter flyovers, and only cutting out 2.6 million. So they said, "Let us do this scientifically," and they did that and came up with 5.7 million acres of Utah that should be wilderness. I do not know if it is 5.7. I am sure that there is some number lower than that which could preserve the wilderness areas. But I certainly know that 2 million is not enough and, particularly, with the language that is in this bill.

The real irony is that this is an attempt, while the protections for mining, coal, tar sands, oil exploration, dams, et cetera, in a State where only eight-tenths of 1 percent of the jobs are in mining, in a State where only 2 percent of the State economic product is in mining. The future is not there. The future is in this beauty that is self-evident to anybody that comes to southern Utah or to the basin and range. The real irony is the Senator from New Jersey, who comes from a State that is 89 percent urban, is making this argument in a State that is 87 percent urban—one of the best kept secrets of the West, the most urbanized area of America. People from this country are coming into the cities.

So I believe that this would even be in the long-term interest of the State. But that is not what this is about. The Utah economy is really not my province. It is my observation, as somebody who has looked at these issues. But what I want to preserve is the possibility for silence and the possibility for time that exists only in a wilderness.

I would like to read, in closing, just two things from a book prepared by several writers about the Utah wilderness. One is by John McPhee, who wrote in "Basin and Range" the following, talking about that basin and range area west of Salt Lake City, that geologic formation that has been stretching for several million years. Reno and Salt Lake City, 7 million years ago, were 60 miles closer together. They are 60 miles further apart today because the geological structure is moving. When it moves, the crust cracks, and up pops mountain ranges. These are the mountain ranges that we are trying to protect in the broader wilderness bill.

McPhee writes:

> Supreme over all is silence. Discounting the cry of the occasional bird, the wailing of a pack of coyotes, silence—a great spatial silence—is pure in the Basin and Range . . . "No rustling of leaves in the wind, no rumbling of distant traffic, no chatter of birds or insects or children. You are alone with God in that silence. There in the white flat silence, I began for the first time to feel a slight sense of shame for what we were proposing to do. Did we really intend to invade this silence with our trucks and bulldozers and after a few years leave it a radioactive junkyard?

Another writer—this will be the final one, and I quoted him the other day—is Charles Wilkinson. He was talking about taking his son into the Colorado Plateau. He says:

> One long hike took us down into a narrow canyon branching off the Escalante River. The sandstone walls, smoldering red, thrust straight up. Scattered pinyon and juniper, and ferns and grasses around the springs, accented the color embedded in the canyon sides.
>
> The Wingate Sandstone had been the rock of surrounding mountain ranges. During the Triassic, some 200 million years ago, water worked the mountains, wearing them into sand. Winds lifted the grains and piled them up as dunes on the desert floor. The sands hardened back into rock. Then the whole Colorado Plateau rose. . . The creek in this now canyon would have none of it, resolutely holding its ground against the upthrusting Wingate and younger formations on top of it, cutting down 1,000 feet into rock and time. Much of the day we walked up to our calves in the creek.
>
> Not long ago we scorned this land as remote, desolate. That thinking led to the postwar Big Build-up and the coal plants, dams, and uranium mines.
>
> But today we know southern Utah, in the heart of the Colorado Plateau, for what it really is. The geologic events were so cataclysmic and so recent, and the frail soils so erodible, that the Colorado Plateau holds more graphic displays of exposed formation than anywhere on earth. The dry air has preserved the ancient people's durable and magical rock art, villages, kivas, pots, and baskets to a degree found nowhere else.

Yet our society seems to lack the will to care for the Canyon Country. The Utah congressional delegation . . . wants to declare some fragments of the backcountry wilderness and then throw the rest open to development.

That would be so short-sighted, so contemptuous of time. The old images on the walls were made so long ago, the walls themselves even longer. Time runs out to the future, too: give our grandchildren, and those far down the line from them, the blessing of taking a daughter or son into the weaving, rosy side canyons, of finding their own Dream Panels, and of being instructed by the young person on how to scramble out.

Time, oh, time . . . May we not forsake you now.

Mr. President, this is about time and silence, and the chance for future generations to explore and understand this vast and beautiful wilderness.

Mr. HATCH. Mr. President, I ask unanimous consent that I be given 5 minutes.

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

Mr. HATCH. Mr. President, during the debate, the Senator from New Jersey provided us with his viewpoint on many subjects related to the proper management of our Nation's public lands. I respect him for his positions, for his contribution to ensuring that one of this country's many natural resources—our public lands—are properly and efficiently managed in an environmentally sensitive manner.

However, to be perfectly frank about it, he is just plain wrong when it comes to our bill to designate wilderness in Utah. I do not believe he has a full appreciation for the difficulty these small communities in my State have with maintaining all of this land as wilderness.

The longer Congress postpones action on the Utah Public Lands Management Act, the more economically strapped our small towns become. It stands to reason that you cannot take a primary resource out of circulation within an economy and expect that economy to flourish. The land resources in rural Utah are of the utmost importance to an economy whose major industries include mining, farming, and ranching.

My friend from New Jersey says our rural Utah counties can live off tourism dollars. Certainly, the tourism industry is vital to our State and important to the general welfare of our economy. But, it is not a panacea for the ills that plagued small town U.S.A. as the Senator pointed out yesterday. To give two examples, since nearly one-half million acres of land have been designated wilderness study areas [WSA's] by the BLM in San Juan County, UT—in Utah's southwestern corner—tourism has only increased from 2 percent in 1985 to 5 percent in 1995. In Millard County, on the western half of Utah, BLM designated acres as WSA's. Guess what the impact to their tourism industry was? Good guess—zero.

In my opinion, these kinds of numbers are not going to save the local economy of any community no matter how much acreage is designated wilderness.

I do appreciate his sensitivity to the manner in which Utah's public lands are managed—I really do. But, I would like to set his mind at ease. We must be doing a fairly decent job; for, after all, we have placed every single acre in BLM's inventory in a position, at least as far as the Senator from New Jersey is concerned, that each of them meet the wilderness criteria. That is a pretty decent record.

However, Senator BRADLEY should worry about one matter, which was not discussed in any great detail yesterday, and that is the presence of State school trust lands now captured within these wilderness study areas. They are owned by the State of Utah on behalf of and for the benefit of Utah's school children—not New Jersey's school children, Utah's children.

These lands were endowed by the Federal Government to Utah's schools at the time Utah became a State—100 years ago. The Utah School Lands Trust is not a recent development.

But, given the selection of the WSA's, these trust lands have been unavailable for any major revenue producing activity since the WSA's were established due to the restrictions informally imposed on them by their neighboring lands.

The Utah State Legislature has made a commitment to improving the management of the trust lands. These trust lands must produce more revenue if the State of Utah is going to meet its challenges in education. Utah currently ranks 49th in the Nation in terms of per pupil education spending. While I happen to believe that Utah stretches its education dollar further than just about any State and does an exemplary job of educating our kids, there is just no question that education financing continues to be our major concern.

Two years ago, the legislature organized a new State body whose specific reason for being is to gain the greatest benefit from the school trust lands. This body, composed of private citizens, is serious about meeting the purpose for which they have been created, namely, to see that the trust lands produce. I remind my colleagues that wise investments are also part of good stewardship.

I'm sure my friend from New Jersey knows that the State has every legal right to access these lands and to utilize them for whatever purpose they can, consistent with Federal and State laws. But, as I stand here today, I am convinced that, at some point down the road, the State is going to become so frustrated with Congress and this process that it will either sell a trust land section to a commercial entity or take steps to develop the land.

The fact that no one wants a disturbance of that kind in or around a wilderness area is precisely why the trust lands have not been fully developed to date.

Yet, the State cannot wait forever to develop the trust lands. The revenue from these lands is becoming increasingly important to our educational system. And, I am certain that these lands will be developed to benefit our schools if we don't pass this bill.

This is why our bill provides for an exchange of these lands. We want to get the trust lands out of the wilderness areas. We want to establish a unity of title so there is no commingling of management styles. We want to erase this threat forever. That can only happen with passage of our proposal.

By the way, the proposal my friend from New Jersey was championing yesterday that has been introduced in the House does not contain any reference at all to the school trust lands contained within the areas designated by that bill. It does not indicate how trust lands in H.R. 1500 will be dealt with under this measure. Are they just going to remain as enclaves within designated areas? Given his concern for pristine wilderness, he should worry about what could happen in the absence of a land exchange.

But, let me discuss several points the Senator from New Jersey raised in his opening comments yesterday that need to be addressed. They are out in the public forum and deserve a brief response.

First of all, he said that our release language, while an improvement over the original language, was "a backdoor attempt to do what the original bill had intended to do but do it in a slicker way."

Mr. President, I went into detail yesterday as to what the intent of our release is and is not. There is no funny business here, no tricks, no backdoor attempt. We are stating the full intent behind our language in the light of day.

It is simple and straightforward. Nondesignated lands will slip back into the pool of normal BLM lands for continued management under BLM's existing authorizes, special designations, and the host of Federal legislative authorities which apply to public land management. Subsequently, they will be managed by the local BLM consistent with multiple uses defined in section 103(c) of the Federal Land Policy and Management Act and consistent with land use plans developed through section 202 of the same act. This language will allow the local BLM land managers, the "on-the-ground professionals," to manage nondesignated lands for their wilderness values and characters utilizing existing BLM authorities. I trust they will do so.

Our language asks the Federal manager to do his job, which is to manage the Federal lands in the best way possible. It is not up to that manager to

decide if an acre of land should be deposited in the National Wilderness Preservation System—it is up to us. The land manager can use an existing authority to protect and preserve the wilderness—small "w"—character of the land. That is expected when it's appropriate. But, he is not authorized, nor should he be, to use an existing authority to protect and preserve that pristine character to become future wilderness—big "W", or part of the wilderness system, at a future date.

And, if that concept bothers the Senator from New Jersey then he should go back and change FLPMA or introduce a bill that requires another round of studies and review by the BLM—that is, if he wants to spend another 17 years and another $10 million of taxpayer funds.

The release language was suggested by the ranking minority member of the Energy Committee. He said himself that he found the practice of managing land for a future designation as offensive as the prohibition on the practice of not managing it for its characteristics.

If we go along with the Senator from New Jersey, then we should simply designate all 22 million acres in Utah as wilderness study areas and never derive any benefit from Utah's public lands. I do not understand why our language bothers the Senator from New Jersey so much. It is completely consistent with the scope and intent behind FLPMA.

Besides which, the BLM wilderness inventory had a beginning. It should also have an end, like this issue, and hopefully before Utah celebrates its 200-year birthday in 2096.

Second, the Senator indicated that "four million acres of Utah's red rock wilderness will be left open for development." He then went on to list several areas that fall into this category.

Several times yesterday it was asserted that the passage of our bill will lead to a massive immediate destruction of nondesignated lands. I do not know how many times I need to say this, but that statement is simply not true. In fact, it is offensive to me not only as one of the principal authors of this bill but as a Senator from Utah.

Our critics continues to conjure up images of bulldozers lined up to advance on these BLM lands. Those who rely upon such images to advance their cause purposely ignore our sincere desire—not to mention our entire State government—to protect these lands from inappropriate and destructive activities.

In addition, I mentioned the plethora of environmental laws and conservation regulations passed since 1964 that provide layer upon layer upon layer of protection for these lands. I will not go through the list again, but they are listed on the displayed chart.

This argument should not even be a part of this debate. Yet, it continues to be used in the propaganda and rhetoric of the elite special interest groups.

Unlike some, we have confidence in BLM's professional land managers to continue making objective decisions on the future uses of these lands in accordance with the law.

By the way, I would would like to remind the Senator from New Jersey that we include in our proposal more than 16,000 acres in Fish and Owl Creek Canyon, more than 220,000 acres of the Kaiparowits Plateau, and more than 75,000 acres of the Dirty Devil area.

Also, it might surprise the Senator to know that more than 80 percent of the acreage in our proposal is located near or below Interstate 70, the highway that divides Utah in half. John Sieberling, the former representative, once said that if he had it his way, he would make a national park of all the land south of Interstate 70, and if the Senator from New Jersey had his way he make the entire area wilderness. Let us be clear about this: our proposal protects Utah's red rock wilderness.

Third, Senator BRADLEY referenced the possible development of coal leases within the Kaiparowits Plateau by the State of Utah.

Yes, it is true that the State of Utah has identified these BLM lands—which are not contained in a wilderness study area—let us be clear about that: they are not being managed as wilderness—as one of 25 tracts of land it desires to exchange with the Federal Government.

But, what the Senator did not say is that these leases are currently under suspension by the Department of Interior pending completion of an environmental impact statement that will determine if mining is ever going to be allowed in that area,

Once again, as he did yesterday, the Senator is second guessing the activities of BLM's own personnel, only this time it deals with this EIS. He also accuses the State of Utah for mismanaging this acreage when there has been no determination that mining will ever occur there. While the coal is there, the ability to access it is still questionable.

If mining ever occurs in the manner described yesterday by Senator BENNETT, the leases will be subject to every pertinent Federal environmental law, whether the leases become State or not. No matter what happens to the ownership of the land, the Federal permitting process will continue.

And, since the lease holder will need to construct an access road to the site, build a power line to the site, and construct certain facilities all on BLM land, Federal permits for each of these items will be required. So, the big environmental special interest groups will have plenty of opportunities to appeal this project every step of the way.

Also, it is important to note that the site where the mine is projected to be located was rejected by the BLM during its initial statewide review process. The area was rejected because it did not meet wilderness criteria. Let me tell the Senator from New Jersey why.

Because located within a 2-mile radius of the proposed site are 80 drill sites, 36 miles of roads, an airstrip, and several other surface disturbances symbolic of mining activity. Do not forget—this same site was initially mined in the late 1970's. Of the 40 acres required for the mine site within the lease holders total leased area, half of it—more than 20 acres—has already been disturbed by mining activity. This site does not meet wilderness quality, but after seeing what is in some of the areas recommended by the special interest groups, I can see why they were confused with this site.

This is not an issue about protecting wilderness value; this is an issue about preventing the responsible development of Utah's largest coal reserves. But, nevertheless, this bill has nothing to do with whether or not this area will ever be mined.

Fourth, the Senator indicated our bill "denies a Federal water right to wilderness areas designated by this bill."

The Senator from New Jersey has evidently not read the language carefully. It is true that our bill does not create a Federal reserved water right for areas designated by this act. That is because we do not want to preempt State water law or to go around the State water appropriation system. But, it does not mean that the Federal Government cannot acquire a water right for designated wilderness areas.

Utah water law follows the concept of the prior appropriation doctrine. It has been the basis for more than 90 years of State administration of surface waters. All major rivers and stream systems in Utah have water rights established under this principle. The result is a fine tuned system relying on diversions, return flow, rediversions, mingled with some storage reservoirs. Any new filing or alteration of the existing pattern of water use literally sends ripples throughout the total system.

Unlike my colleague, we do not want to follow the typical Washington attitude that says we should preempt State law every time the Federal Government wants something from our States. Why can't we have the Federal Government abide by State laws once in a while when performing a Federal task? The Federal Government can obtain a water right in the State of Utah, and here is how it is done.

Under Utah State water law, one must put a water right to "beneficial" use. That is, it must be applied to the land, to home use, or to other consumptive uses in order to maintain the right.

However, there is an exception to the "beneficial" use requirement.

Two divisions within the Utah Department of Natural Resources—the Division of State Parks and the Division of Wildlife Resources—can legally acquire a water right and leave a determined quantity of water in a stream—an "instream" flow, as it were—that then becomes that particular water right's "beneficial" use.

Under our bill, the BLM is provided the ability to work cooperatively with these two State divisions to create an "instream" flow to avoid the potential dewatering of a wilderness area, in the unlikely event this occurs.

The process would be:

First, BLM acquires a water right from an upstream owner anywhere in the State—a rancher, an old mine site, a municipality, a private company, etc.

Second, the right is assigned or deeded—transferred—to one of the two State divisions previously mentioned.

Third, an instream flow is created.

In the fall of 1994, this occurred. The Division of Wildlife Resources acquired a water right from a private corporation and created an instream flow for wildlife purposes on 82 miles of the San Rafael River in central Utah.

The alternative to this language—an unqualified Federal reserve water right—would leave an ominous cloud over every existing water right in the State of Utah.

There is no expressed or implied Federal reserve water right in our language, but that does not in any way prevent the Federal Government from acquiring a water right following the proper State procedures.

Fifth, our language "permits the State of Utah to exchange State lands for Federal lands of approximate equal value." The Senator from New Jersey then indicated that the value of the Federal lands involved may be greater in value than the State lands.

Last December, the committee adopted our proposal to establish an exchange process whereby the value of the lands involved in the exchange would be determined based on national appraisal standards. While the BLM thinks the Federal lands are 5 to 10 times greater in value than the State lands, the State of Utah thinks the State lands, again captured within wilderness areas, are greater in value than the Federal lands. That is why the notion of a value, determined by recognized appraisers, and negotiated between the two parties, appears the soundest methodology to reconcile these differences. It does not matter, really, what either side is saying right now on the value question—it will be determined at a later time.

The universe of lands to be exchanged has been determined. Since the State of Utah has no choice at all to determine which lands it would trade to the Federal Government, it only makes sense to allow the State to determine which Federal lands it desires. It has identified 25 different parcels, ranging form speculative coal deposits to speculative natural gas to potential real estate development, and all in the name of benefiting Utah's school children.

The Senator is not correct. The Federal Government does not have to approve the transaction. Once the State makes an offer of lands to be exchanged, the two parties will sit down and conduct "good faith" negotiations on the various aspects of the trade. If a mutual decision is not reached, then the matter can be pursued in the courts.

Concern was expressed regarding our earlier language about the lack of involvement by the Secretary in crafting each exchange. I believe the language we have included in the substitute amendment remedies that situation and makes the Secretary a full player in this exchange should he desire to be involved.

And finally, the Senator indicated that our proposal contains "broad exceptions to the Wilderness Act of 1964," meaning he believes we are rewriting the definition of wilderness by allowing certain activities and facilities to be undertaken within designated wilderness areas.

This criticism goes to the so-called special management directives contained in our proposal.

These special provisions really are not that special after all. There are plenty of examples of previous public lands legislation containing such provisions.

A Congressional Research Service report, completed last July, concluded that the directives in S. 884 are comparable or related to similar language in 20 existing public laws and over 40 separate statutes adopted by Congress since 1978.

What do these special management directives do? They allow those activities, based on valid existing rights and consistent with the Wilderness Act of 1964, to continue in areas designated as wilderness. They are included to address the potential "on-the-ground" conflicts that are unique to Utah's BLM lands, such as livestock grazing, the gathering of wood by Native Americans, and the presence of water facilities used for agricultural, municipal, and wildlife purposes, to name a few.

The critical point here is that these rights predate the designation of land as wilderness.

We are not rewriting the definition of wilderness. On the contrary, we are merely adhering to the principles of the 1964 Wilderness Act and the history of wilderness legislation in the past two decades. The Wilderness Act of 1964 does not abandon or ignore rights that predate wilderness designation, and practically every wilderness bill passed since the late 1970's contains special language to protect these rights and to address any site specific conflicts that might arise in the exercise of these rights.

This language enables us to designate certain lands as wilderness that might be otherwise excluded under the 1964 act due to the conflict with valid existing rights.

But I would ask the Senator the following questions regarding his concerns for our special management directives.

Where was he when we passed the Okefenokee National Wildlife Refuge Wilderness Act, the Boundary Waters Canoe Area Wilderness Act, and the Florida Wilderness Act of 1984 that provided for the continued use of motorized boats or other watercraft in designated areas?

Where was he when we passed the already mentioned Boundary Waters Canoe Area Wilderness Act that provided for the continuation of snowmobile use in designated areas?

Where was he when we passed the Central Idaho Wilderness Act of 1980 that allowed the continued landing of aircraft and the future construction and maintenance of small hydroelectric generators, domestic water facilities, and related facilities in designated areas?

Where was he when we passed the Endangered American Wilderness Act of 1978 and our own Utah Wilderness Act of 1984 providing for sanitary facilities in designated areas?

Where was he when we passed the Colorado Wilderness Act of 1980 allowing motorized access for periodic maintenance and repair of a transmission line ditch in a designated area?

And, where was he when we passed the Colorado Wilderness Act of 1993 providing for the use, operation, maintenance, repair, modification, or replacement of existing water resources facilities located in designated areas?

The point is not to single out any of these laws for they did or did not do, but to merely demonstrate that special management directives are designed to address the on-the-ground conflicts unique to the areas designated by these laws. That is what we are providing for in our bill—those situations that are unique to Utah's lands. It is, as my colleagues will note, typical of the way we have developed public land policy in this body.

I would also state for the record two other items.

One, the Senator continues to mention the provision in our bill that provides for the continued use of motorboat activities in designated areas. First, these activities are only allowed if they predate the designation. And, second, and most importantly, our language was modified in the committee to ensure that it was consistent with the 1964 act.

Also, he spoke of the language in our bill permitting low-level military overflights. Let me remind the Senator

that this language was provided to us by the Pentagon, and is nearly identical to similar language included in the California Desert Act. We have added language requested by the Air Force that recognizes Hill Air Force Base as the gateway to the Utah Test and Training Range, located in Utah's west desert area, that is the only training facility in the United States on which every aircraft in the Air Force inventory trains.

In closing, let me also say that our bill has been characterized as lacking large blocks of designated wilderness through which a traveler could wander from one time zone to another. Well, in our bill we may not extend any wilderness area beyond the mountain time zone, but it does have several large contiguous areas of spectacular wilderness all linked together in huge blocks of land. A visitor could never see another human being for days in these areas.

These areas include:

Desolation Canyon in central eastern Utah, through which the Green River flows—a total of 291,130 acres. This area may not cross any time zones, but it is located in three different counties.

Fiftymile Mountain in south central Utah—as mentioned, this is on the Kaiparowits Plateau and consists of 125,823 acres.

North Escalante Canyons—this area, once pursued to become a national park, totals 101,896 total acres.

Book Cliffs—this area so appropriately named is a showcase of topography and wildlife, and consists of 132,714 acres, all of which is located in Grand County, UT.

And, last but certainly not least is the San Rafael Complex—located in the heart of central eastern Utah and a topographer's dreamland, this area consists of 193,384 acres.

If one looks at where some of the other areas designated by or bill are located, you will note that many of them are located near some of Utah's national parks to form blankets of pristine wilderness, such as the area near Canyonlands National Park, Capitol Reef National Park, and Glen Canyon National Recreation Area.

Our legislation truly captures Utah's crown jewels of BLM lands, including high mountain ranges, deep river canyons, and red rock deserts. These are all reflective of Utah's premier scenic landscapes, and why we in Utah are not shy in stating that it took God 6 days to create Utah before he made the rest of the world with leftover parts.

Again, I urge the Senator from New Jersey to take another careful look at the facts and at the specific language in the substitute amendment. I think he will find reassurances there that this is a good bill for Utah and a good bill for the environment.

Mr. President, I have listened to this now for the past 3 days. I admire my friend from New Jersey. He is a fine person. He represents his State well.

But, he does not know anything about Utah. However, I happen to think that the Governor of Utah, both Senators, all three Congress people, virtually everybody in the State legislature, everybody in the PTA, school districts across the State, and 300 Democrat and Republican leaders, political leaders, know just a little bit better, just a little bit more, about Utah than the distinguished Senator from New Jersey.

I have heard about all I can bear to hear about silence and time, and having respect for them. We understand that. In Utah, we know what silence and time is because we have experienced them throughout our entire State. However, you do not get much silence and time in all of that low-lying sagebrush land along the highways which the other side has tried to put into this bill. They do not even know what wilderness is. We do. We have plenty of it in Utah. We put through the 800,000-acre Forest Service bill in 1984. I was a major mover on that bill. It has been a very good bill. We did it because Utahns agreed on what should be done. We love our State.

To hear this, you would think that 20 million acres is going to be ripped up for shopping centers. The fact is that every one of those 20 million acres will be subject to all environmental laws, and rightly so, as far as we are concerned. But on this 20 million acres, you might be able to ride a bicycle, if you want to, which you cannot do in wilderness.

Let me just say this. I have gone all over Little Grand Canyon. I have been all over the Black Box; Dirty Devil, and Sam's Mesa; North Escalante Canyons; San Rafael Swell; Book Cliff; Sid's Canyon; Desolation Canyon—beautiful areas that we put into this wilderness bill. Without this wilderness bill, they will not be wilderness. We think they ought to be.

This business that we allow dams in this bill is misleading—they are not there.

The polling data show that the majority of Utahans are for this bill, and once you explain to people in the polls that wilderness means no mechanization whatsoever, the support for those on the other side who are for 5.7 million acres drops off dramatically. But the majority are for our bill.

With regard to the value of lands to be exchanged, that is going to be negotiated under this bill. Nobody is going to rip off the Federal Government. But our school kids are dependent upon this bill, which is why we will negotiate the value of these school trust lands.

With regard to water, the Secretary can acquire water rights in the State through the State appropriation process. Can he not do that?

With regard to the release language, there is no binding of a future Congress whatsoever in this bill. If they want to do wilderness, they can do wilderness in Utah again. But they are going to have an uphill battle because people in Utah are tired of being pushed around.

With regard to the special management directives, I would say to my colleague that every major wilderness bill since 1978 has contained similar directives to take care of conflicts. We provide for that as well. On-the-ground conflicts have to be resolved, and over 20 separate bills passed by this body in the past two decades have done that. This is not something new.

We have used the public process here. This matter has gone through two decades, hundreds of meetings, $10 million, and brought people together all over the State. The affected counties did not want any wilderness—zero. Then they agreed to 1 million acres. We brought them up to 2 million acres. The other side wants 5.7 million. One group wants 16 million acres in wilderness. The fact is we have 100 percent more acreage in this bill than the affected counties want, and about 60 percent less than what these people on the other extreme want. That is what compromise is all about.

The fact of the matter is that this process has not been politicized. The Clinton administration came in and suddenly their BLM people started to decry all of the work that had been done through the years by other BLM people, and which was done in a reasonable and good way. They have politicized this process. There are volumes and volumes of data. The environmentalists have a 400-page book. We put the volumes and volumes of data here—two huge stacks this high—to show what we have gone through.

Have most of these people who are criticizing this bill even been to these places? The fact is most of them have not been there.

I ask unanimous consent for 1 more minute.

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

Mr. HATCH. Mr. President, we have put the crown jewels of Utah wilderness in this bill. I happen to believe that when you have the whole congressional delegation, the Governor, the legislature, the schools, the farmers, and virtually every organization except these environmental extreme organizations, all for this bill in a State that has protected its beauty itself, we do not need to be told by some Senator from New Jersey how to protect our State—or from any other State. We know how to do it. We know it is beautiful, and we are going to keep it that way, even while it is subject to these environmental laws.

It is almost offensive what has been going on here. If you look at what they are recommending—these low-lying

sagebrush lands along highways—where is the silence and solitude there? It is crazy.

When we start ignoring our colleagues who have gone through a process in this manner in a reasonable, decent, honorable way, having had to bring the one side along and having had to bring the other side along—and, now we are going to ignore all this because we want to do some national environmental agenda? That is when this particular body is going to have a lot of troubles in the future. That is all I can say. I yield the floor.

CLOTURE MOTION

The PRESIDING OFFICER. All time having expired, the hour of 10:36 a.m. having arrived, the motion having been presented under rule XXII, the Chair directs the clerk to read the motion to invoke cloture on the Murkowski substitute amendment to H.R. 1296.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the Murkowski substitute amendment to Calendar No. 300, H.R. 1296, providing for the administration of certain Presidio properties at minimal cost to the Federal taxpayer:

Bob Dole, Frank H. Murkowski, Rick Santorum, Slade Gorton, Trent Lott, Jim Inhofe, Hank Brown, Ted Stevens, Ben Nighthorse Campbell, Conrad Burns, Don Nickles, Larry E. Craig, Jim Jeffords, Judd Gregg, R.F. Bennett, Orrin G. Hatch.

VOTE

The PRESIDING OFFICER. The question is, Is it the sense of the Senate that debate on the Murkowski substitute amendment to H.R. 1296 shall be brought to a close?

The yeas and nays are ordered under rule XXII. The clerk will call the roll.

The legislative clerk called the roll.

The yeas and nays resulted—yeas 51, nays 49, as follows:

[Rollcall Vote No. 54 Leg.]

YEAS—51

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

NAYS—49

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

The PRESIDING OFFICER (Mr. SANTORUM). On this vote, the yeas are 51, the nays are 49. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

The majority leader is recognized.

UNANIMOUS-CONSENT AGREEMENT—S. 4

Mr. DOLE. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of the conference report to accompany S. 4, the line-item veto bill, and that the reading be waived.

Mr. DASCHLE. Reserving the right to object. There does not appear to be any disagreement with regard to the Presidio bill itself. That bill has broad-based, virtually unanimous support, so it is my hope that we can pass at least that bill by unanimous consent.

So I ask unanimous consent to strip all amendments and motions and to pass the Presidio bill in its own right.

The PRESIDING OFFICER. Is there objection?

Mr. MURKOWSKI. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. DASCHLE. I hope we can resolve that matter. In light of the fact we need to continue to find ways in which to move the legislative agenda, I do not object to the majority leader's request.

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

LEGISLATIVE LINE-ITEM VETO ACT OF 1995—CONFERENCE REPORT

The PRESIDING OFFICER. The clerk will report the conference report.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 4), a bill to grant the power to the President to reduce budget authority, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The Senate proceeded to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of March 21, 1996.)

Mr. MURKOWSKI addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

PRESIDIO LEGISLATION

Mr. MURKOWSKI. Mr. President, in response to the minority leader's unanimous-consent request, obviously we are all sensitive to the merits of the Presidio. The California delegation has worked very, very hard on this. But as everyone in this body knows, this was a package that was put together with great commitment and great understanding that, indeed, in order for it to pass the Congress, it had to stay as a package.

Everybody knew that when we went in, and to suggest action by the U.S. Senate would be acceptable to the House everyone knows is unrealistic. So we are set with the reality here.

It is the intention of myself, as chairman of the Energy and Natural Resources Committee, to again pursue the package. It is the largest single environmental package that has come before the 104th Congress. We are all disappointed at the action that was taken by adding on the minimum wage amendment, but that was something seen fit by the minority to do, and we are left with this reality today, which is, indeed, unfortunate.

It is my intention to continue to pursue working with the Members who objected to the various aspects of the package, to try to continue to pursue it, in this legislative year. That is the pledge I want to make to the minority and the minority leader as well.

I want everybody to understand the rationale behind the objection. This would not have gone in the House as a freestanding Presidio bill. Everybody is aware of it.

Mr. President, I yield the floor.

Mr. DASCHLE. Mr. President, let me just say, the vote just cast had nothing to do with minimum wage. It had everything to do with simply one provision dealing with Utah wilderness. There was no understanding with regard to this package, as the distinguished Senator from Alaska has called it.

Obviously, each one of these bills merits consideration in and of its own right. There is no objection to the package were we to remove the Utah wilderness bill. That is the issue. That is what this vote was all about. But there is no disagreement whatsoever with regard to the Presidio bill on either side of the aisle, as I understand it, and to hold the Presidio hostage to all the other issues seems to me to be unfair.

I yield to the Senator from California for a brief comment and a question.

Mrs. BOXER. Yes, I do have a question. I have a comment as well. To my friend, Senator MURKOWSKI, who has worked hard, along with Members on both sides of the aisle here, the fact is the House has passed the Presidio as a freestanding bill.

Indeed, that is the bill we have marked up. So there is not any reason not to pass the Presidio as a freestanding bill. I would ask my leader on the Democratic side, since he is a cosponsor of the Presidio bill which Senator FEINSTEIN and I have worked so hard on, and as well as Senator DOLE, he is a sponsor of the Presidio bill, will my leader give us his word that he will do all that he can to make this bill a reality? Because I would say to my friends on both sides, the Presidio is deteriorating? We need to get in there and make sure that that land is kept up. It is a priceless jewel. And we have such broad agreement. It just seems a pity that we would catch it up in these other debates.

Mr. DASCHLE. I answer to my friend from California in the affirmative. It is our desire to work with the delegation of California and others who are interested in maintaining the historic nature of this remarkable facility, that we pass the legislation this year. In has been a long, long effort, a tireless effort on the part of my two colleagues from California.

I hope we can successfully complete our work this year. It ought not be held hostage to very controversial legislation that has nothing to do with the Presidio itself. I yield the floor.

Mr. DOLE addressed the Chair.

Mr. MURKOWSKI addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. DOLE. Let me yield to the Senator from Alaska.

Mr. MURKOWSKI. Mr. President, let me remind my colleagues of a fact that in the package there were about 53 individual items. The package was held up almost a year by a Member on the other side who refused to allow the individual issues to come up for action. That is a fact, and the RECORD will reflect that. Now we are faced with the reality of who is to blame for the failure of the package. I think the RECORD will reflect the reality that this was well on its way to successful consideration of cloture prior to the decision by the other side to put the minimum wage on it, which changed the complexion and the interpretation of the last vote. Many Members looked upon the last vote in actuality as a reference to support for the minimum wage and that it did not belong there. We all know it.

So the responsibility has to be with the minority that chose to allow and support inclusion of the minimum wage on the largest environmental package of this session, the 104th Congress. That is, indeed, unfortunate. Let us be realistic and recognize where the responsibility lay. It lay in holding that package hostage for a year and it lay with the responsibility of putting the minimum wage on it. I thank the Chair and thank the leader.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. DOLE. Mr. President, I understand it is all right with the Democratic leader if I obtain a consent agreement on the farm bill.

Mr. DASCHLE. That is correct.

Mr. DOLE. Let me do that while we also work out a time agreement on the line-item veto.

UNANIMOUS-CONSENT AGREEMENTS

Mr. DOLE. Mr. President, I ask unanimous consent that the majority leader, after consultation with the Democratic leader, may proceed to the consideration of a concurrent resolution to be submitted by Senator LUGAR, further, the resolution be considered agreed to, and the motion to table be laid upon the table, the Senate then proceed to the conference report to accompany H.R. 2854, the Agriculture Reform and Improvement Act, that the reading be waived, and there be 6 hours of debate on the conference report to be divided as follows: Senator LUGAR, 2 hours; Senator LEAHY, 1 hour; Senator DASCHLE or designee, 3 hours; further, that immediately following the expiration or yielding back of time, the Senate proceed to vote on the adoption of the conference report with no intervening action.

The PRESIDING OFFICER. Is there objection?

Mr. DASCHLE. Reserving the right to object, and I will not object, I will only again point out to my colleague from Alaska that we would enter into a unanimous-consent agreement today for all of the package the Senator from Alaska referred to except the Utah wilderness. We will do it this morning. We can pass that bill by 11:15. It is now 11:14. So if the Senator from Alaska is prepared to drop the one controversial bill we will enter into an agreement today, unanimous-consent agreement, passing all the rest. If he is prepared to do that, I am prepared to do that right now.

But I have no objection to the request propounded by the majority leader having to do with the farm bill conference report.

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

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. DOLE. Mr. President, let me add my hope that we can resolve the problem. I know there are a number of projects, including the Presidio, that I support, and hopefully this will—now and then we get things resolved around here. Maybe we can do this in the next few days. But we would like to in the interim, if we could, do the line-item veto and the farm bill conference report. That will give us some time, if there is any negotiating opportunities, to do that. It is also my hope that we can have a time agreement on the line-item veto. I understand that the distinguished Senator from West Virginia, Senator BYRD, would like us to at least proceed and then perhaps enter into a time agreement a bit later.

Mr. DASCHLE. It is my understanding, Mr. President, that is correct, the Senator from West Virginia is prepared at some point to enter into a time agreement. We assume he will be on the floor shortly, and we can discuss the matter with him at that time.

Mr. DOLE. Mr. President, let me indicate on this side of the aisle, for the present time the Senator from New Mexico, Senator DOMENICI, will be the manager in charge of the time on this side for the line-item veto.

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. Mr. President, notwithstanding the unanimous-consent agreement, I ask unanimous consent that I be permitted to speak for 2 minutes on the cloture vote.

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

PRESIDIO PROPERTIES ADMINISTRATION ACT

Mr. BUMPERS. Mr. President, I want to echo what our distinguished minority leader has said. There are over 50 pieces of parks or public lands legislation in the bill on which we just refused to invoke cloture. I have two pieces of legislation in that package that are very important to me. I received no pleasure in voting against cloture and knowing that I have to start all over again moving those two bills.

I do not mind telling you this is a lousy way to legislate. It is like hanging a Damocles sword over your head by saying, "If you will vote for these 52 goodies, you are going to have to choke this bad one down too"; 49 Senators said they were not willing to do that.

They are all good pieces of legislation. If we want to sit here and talk about who had holds on those bills over the past few months, or the minimum wage bill, that is fine. However, that does not solve anything. As the minority leader stated, within 30 seconds we can pass more than 50 bills, 100 to zip, by simply removing the Utah wilderness bill.

Having said that, let me also say these things are no fun. Nobody has more respect for the two Senators from

Utah than I do. Senator BENNETT and I have worked together for endless hours trying to reform the concessions policies of the National Park System.

Therefore, it is not easy for me to filibuster and require a cloture vote on something that is so important to the Senators from Utah. But there are times, regardless of how close a friend you may be and how much respect you may have for another Senator, that you have to stand up for something you really feel is critically important. Perhaps the majority leader and the minority leader could sit down with the Senator from Alaska, who is chairman of our committee, and with Secretary Babbitt.

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

Mr. BUMPERS. Mr. President, I ask unanimous consent for 1 additional minute.

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

Mr. BUMPERS. And come back to this floor and do something very responsible that would be very pleasing to the people of this country. If the people of our country saw the Democrats and the Republicans joining hands, to pass more than 50 pieces of legislation in a bipartisan spirit, everyone in America would applaud. I promise you it would lift the morale of the country ever so slightly.

We ought to do it, and we certainly ought to do it before we check out of here tonight. I want to sit down with the two Senators from Utah. As I have suggested, perhaps the majority and minority leaders can participate along with the chairman and ranking member of the Energy Committee, and Secretary Babbitt and work on the Utah wilderness bill. I would like to get that contentious item off of the calendar.

Mrs. FEINSTEIN. I agree.

Mr. BUMPERS. People operating in good faith around here can do it. I am very pleased with the outcome of the cloture vote. I want my colleagues from Utah to know they are my friends. I hope we can work something out with regards to this legislation. I yield the floor.

Mrs. BOXER addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Mr. President, do I need unanimous consent to speak for 1 minute?

The PRESIDING OFFICER. Yes.

Mrs. BOXER. Mr. President, I ask unanimous consent to speak for 1 minute on the subject.

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

Mrs. BOXER. I thank my colleagues for their patience.

I just feel for some of us here in the Senate, particularly the two Senators from California, feel it is an awfully difficult situation when you have worked so long and hard and you have built up the kind of bipartisan support that we have for the Presidio, from the majority leader, to the minority leader, to Senator BEN NIGHTHORSE CAMPBELL, who literally came in and saved the thing, to Senator BUMPERS for being there for us through all the ups and downs of this battle, and to see it all come down in a crashing blow because of another issue, is awfully difficult for all of us.

I do hope that we can work something out on Utah wilderness, either by saying that it will come up in another context on its own—it does deserve the attention on its own. I support what Senator BUMPERS recommended, which is a high-powered meeting with the Senators themselves, a high-powered meeting to sit down with those who have taken such an interest in this, Senator BRADLEY and others, to try and resolve these differences and these problems.

I just want to say that we have a crown jewel of a national park in the Presidio, but if we do not quickly set up a trust and get to work making sure that there is upkeep, that the buildings are put to good and proper use, and that the income from those buildings go to repair the facilities and keep them pristine, we will lose this priceless jewel. I do not think anyone wants that to happen.

I was very pleased that Senator DASCHLE made a unanimous-consent request to pass Presidio on its own, because I think that we need to keep coming back to that point. There is no controversy there. I was heartened by the majority leader's comments that he is going to do what he can to make it happen. The clock is ticking on this priceless jewel. I hope we can reach across party lines as we did when we gained all the support to solve the Utah wilderness problem, pass this bill, without that attached to it.

I think we could all go home as Republicans and Democrats and be proud of what we have done. Thank you, Mr. President.

Mrs. FEINSTEIN. Mr. President, I ask unanimous consent to speak for 2 minutes.

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

Mrs. FEINSTEIN. Mr. President, I support the comments of my colleague on the Presidio. I have lived all my life one block from the Presidio. I know it well. The Presidio bill is predicated on something that is unique. It is a private-public partnership whereby the more than 500 historic buildings and the additional buildings would be leased out, with a hope that over a 15-year-period it would be able to make public areas of the Presidio self-supporting.

Having said this, I am hopeful that every Member of this body could realize the longer it takes to get a bill, the more in jeopardy that plan becomes. Because of the rains, because of the fact that many of these buildings are now boarded up, they are subject to intrusion, to vandalism; they are subject to the absence of an adequate policing authority on that 1,500-acre post. The Presidio, by each day of delay, is placed in jeopardy.

I am also hopeful, and I address these remarks to the distinguished majority leader, that he would be willing to become a party to negotiations which I think can go on, on the subject of the Utah wilderness, so that we might be able to get an agreement that would be satisfactory to the two Senators from Utah, as well. I think it is possible. I think that every area is not the same as Yellowstone or Yosemite. They have certain unique characteristics which need to have attention, as well.

I am hopeful, Mr. Leader, that in the ensuing days, perhaps under your auspice, there might be negotiations which could be carried out. At least we should try and see if we cannot get some agreement which can either enable the package to move ahead as a package, or enable the Presidio, something which my colleague just said, does have unanimous consent in this body, to move ahead.

The PRESIDING OFFICER. The majority leader.

Mr. DOLE. Mr. President, I am happy to indicate for the record that I would be pleased to try to be helpful in an effort to resolve the differences. Obviously, the one big difference is the Utah wilderness provision. The other projects, I understand, are not particularly controversial. I indicate that I am happy to be of help, or to take the leadership and try to bring people together. I have already spoken briefly to the distinguished Senator from Alaska, Senator MURKOWSKI. It is the hope in the next few days we can make some progress.

LEGISLATIVE LINE-ITEM VETO ACT OF 1995—CONFERENCE REPORT

The Senate continued with consideration of the conference report.

Mr. DOLE. I understand the distinguished Senator from West Virginia is on his way to the floor. Hopefully, we can have the agreement before we commence the debate on the line-item veto because debate is 10 hours in the agreement. We would like to have it immediately start taking affect. If we speak for an hour or two beforehand, that would be an additional time.

The Senator from New Mexico will be here, as will others who are interested in this issue. Hopefully, we will not use the full 10 hours, have a vote early this evening, and then take up the farm bill conference report tonight.

Mr. MCCAIN. Mr. President, do I understand that we are awaiting the approval of the other side for the unanimous consent?

Mr. DOLE. Senator BYRD.

Mr. MCCAIN. If I could, Mr. Leader, while we are waiting for Senator BYRD, I express my appreciation for the work of Senator LOTT, who brought together some very different views on this issue. He did, I think, a magnificent job in reconciling the differences that we had on this side of the aisle.

I also want to thank the Senators from Alaska and New Mexico who obviously have a very deep and abiding interest, given their responsibilities as chairmen of the respective committees. Again, I also thank you for your leadership in making this nearly come to reality.

I understand that Senator BYRD will have certain motions to be made on this issue.

Mr. DOMENICI. Mr. President, before we enter into the time agreement, while Senator MCCAIN and Senator COATS are on the floor, I want to congratulate them. This has been a long and arduous effort on both their parts. They have been single minded and resourceful about wanting to get line-item veto in as part of the legislation that Congress passed, and pass on some additional authority to the President.

I think the bill we have come up with, while there are some compromises from their original stand and certainly some from the original stand of the bill that left the Senate floor, I think we have a good bill. I think history is going to be made some time before too late in the evening, and it will be passed here in the Senate.

I think it is a well-rounded bill. It is a little broader than the original concept of line-item veto, but overall, I extend my hearty congratulation and most sincere feelings to them about their efforts, the two Senators who have led this cause.

I also want to comment on what our distinguished whip did. I want to say thanks to Senator LOTT. It was not as easy as some think to put this together. He brought us together. I want to thank our distinguished majority leader because he actually said to the whip, "Let's get it done." Our distinguished whip takes that kind of a challenge as a serious one, and it did not take too long for us to get the job done.

With that, until Senator BYRD arrives, unless someone else wants the floor, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll. The bill clerk proceeded to call the roll.

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

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

Mr. DOMENICI. Mr. President, I understand that Senator SNOWE from Maine wants to address the Senate with reference to the death of Senator Muskie.

I yield the floor.

Mr. MOYNIHAN addressed the Chair.

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

Mr. MOYNIHAN. Mr. President, I will take just a moment of the Senate's time to prepare for a general debate. I ask unanimous consent that I may proceed for 4 minutes as in morning business.

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

THE EPA STUDY ON ACID RAIN

Mr. MOYNIHAN. Mr. President, New York State, or upstate New York, has been shocked—I think that is a fair term—and finds itself in near disbelief to learn that the Environmental Protection Agency [EPA] has closed the Ithaca station, which is part of a broad network of monitoring stations that collect data critical to understanding the impact of acid rain on the Adirondack Preserve. There is little enough institutional memory around Washington, but one should think the EPA would know that the concern about acid rain began with the disappearance of trout from a number of lakes in the higher Adirondacks. This was a puzzle and, in the end, it was resolved by a fish biologist at Cornell University, Dr. Carl Scofield, who traced the cycle: acid rain caused by increasingly acidified air released aluminum from the granite surrounding the lakes. That aluminum leached into the lakes and was absorbed into fish gills. The fish died.

In 1980, I obtained approval of legislation—the Acid Precipitation Act—which was based on a bill I introduced here in the Congress the year before. My bill was incorporated as title VII into the Energy Security Act of 1980—Public Law 96-294—and directed the EPA to study, over a 10-year period, just what was going on—not to panic, not to go screaming to high Heaven that the skies were opening with awful substances that would burn holes in our children's heads, and things like that—but just to say, "What is this?" Some longitudinal work obviously was in order. The effort was to last for 10 years, at $5 million per year.

During the Reagan administration, as demand for action grew and knowledge was needed, money was collected from research budgets around the country, such that our project, in the end, became a half-billion dollar research project, the largest of its kind. We ended up knowing more about this subject than any of the other industrialized nations. It is a real enough subject, but if our understanding of it is to progress confidently, we need more data, such as can be collected by normal scientific inquiry.

In the 1990 Clean Air Act amendments—Public Law 101-549—we made the best use we could of our research on the subject. We called for large reductions in emissions in the Middle West. Winds blow those emissions toward the Adirondacks, of course. And just to see that we continued along this track, as the then-ranking member of the Committee on the Environment and Public Works—in the conference committee on the bill—I included certain provisions. One was designed so that the lay person could understand what was going on. The provision directed the EPA to compile and provide a registry of acidified lakes. Now, in Florida, that could be all lakes, of course; but it would not be in Pennsylvania or in New York. With the registry, over time, we would see how many lakes were being added, how many were being subtracted; how might we measure, essentially, the effect of our legislation? That has not been done.

I asked for other research measures in law, in statute, that have not been followed. And now the EPA has the arrogance and the insolence and the stupidity to close the research facility at the site where this whole subject was first understood, brought to national attention, and was addressed with national legislation.

Mr. President, I regret to say this, but I hope the administrator is hearing. I am not surprised that persons are calling for the abolition of the Environmental Protection Agency. If it will not obey the law, and if it will not follow elemental common sense, do we in fact need it, or is it an obstacle to the environmental concerns we share?

Mr. President, I thank the Chair.

I yield the floor.

Ms. SNOWE addressed the Chair.

The PRESIDING OFFICER. The Senator from Maine.

Ms. SNOWE. I ask unanimous consent to proceed as in morning business for 5 minutes.

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

THE DEATH OF FORMER SENATOR EDMUND S. MUSKIE

Ms. SNOWE. Mr. President, I rise today with a heart full of sadness, reflection, and fond memories of one of the true giants of this institution—former Senator Edmund S. Muskie of Maine.

Like millions of Americans across the country, I awoke Tuesday to the news of Ed Muskie's passing. My heart goes out to his wonderful wife, Jane, their five children, grandchildren, and the entire Muskie family. I hope that their grief is tempered with the knowledge that their loss is shared by a Nation grateful for the life of a man who gave so much.

Like many other Members of this body, upon hearing the news, I found myself looking back on the remarkable career and lasting legacy of this first

son of Maine who became one of the legendary figures in American political life.

Ed Muskie was a gentle lion. He sought consensus, but backed down from no one. He fought for what he believed in, and was loyal to his country. His greatest goal was to leave this Earth a better place for generations of Americans to come. And he succeeded.

Mr. President, as every citizen of my home State knows, Ed Muskie transformed the political landscape of Maine. Before he was elected Governor in 1954, Ed was fond of saying "the Democrats in Maine could caucus in a telephone booth." Well, much to the chagrin of some Republicans, Ed Muskie's election as Governor changed all that. He was literally the creator of the modern Democratic Party in Maine. After two 2-year terms as Governor, he went on to become the very first popularly elected Democratic Senator in Maine's history. And ultimately, his distinguished career culminated in his service to this Nation as Secretary of State.

But of all the positions he held in public service, it was here—as a Member of this institution, Mr. President, that Ed Muskie left his most indelible mark on history.

Whenever Washington gets mired down in partisan battles, I think of the example set by Senator Muskie and his Republican colleague, the late Senator Margaret Chase Smith, who died last year. They worked together across party lines on behalf of the people of Maine and the Nation. Although they may have had differences, they were united in their dedication to public service and to reaching consensus. They represented the best of what bipartisanship has to offer.

In our present-day budget battles, I think of Senator Muskie, who helped shape the modern budget process as the first-ever chairman of the Budget Committee. Ed possessed a rare wisdom and discipline which allowed him to express in very simple terms why it is so difficult to achieve fiscal responsibility in the Congress. "Members of Congress," he once said "have won reelection with a two-part strategy: Talk like Scrooge on the campaign trail, and vote like Santa Claus on the Senate floor."

Ed brandished that incisive wit many times in this very Chamber, Mr. President, and perhaps it was this humor, along with his commonsense approach to political life, that made Ed Muskie so effective throughout his remarkable career.

During his 21 years in the Senate, Ed Muskie was known for his moderation but he did not hesitate to tangle with his colleagues when he felt passionately about an issue. His reputation as a fighter was established early in his Senatorial career when he went head-to-head with another giant of this body, Senator Lyndon B. Johnson.

One day, as the story goes, the freshman Senator from Maine decided he just could not support the majority leader on a particular issue. Now, crossing the leader of your party is always risky, but that risk took on added significance when the leader was Lyndon Baines Johnson. But possessing a stubborn streak of downeast yankee independence that perhaps only a fellow Mainer can understand, Ed held his ground. He would not give in.

So, in his typically forgiving—and nonvindictive—way, LBJ promptly assigned the freshman Senator his fourth, fifth, and sixth committee choices.

From this rather dubious beginning, Ed Muskie landed a seat on the not-so-choice Public Works Committee. The rest, as they say, is history. It did not take him long to leave his mark on Washington—or on the land that stretches from the Allagash Wilderness of Maine, to the Florida Everglades, to the Redwood forests of California.

You see, growing up in western Maine, Ed had developed a deep appreciation for the environment. Thoroughly committed and visionary, Senator Muskie helped transform the Public Works Committee and went on to become the founding father of environmental protection in America by sponsoring both the Clean Air Act and the Clean Water Act of 1972. These two landmark pieces of legislation have both produced enormous benefits to the health and well-being of our Nation and its people. It is his unwavering commitment to environmental protection that is, perhaps, Ed Muskie's single greatest legacy to the American people. He was indeed Mr. Clean.

With the news of his passing, my thoughts went back almost 2 years ago to the day—because Ed Muskie's birthday is March 28—when Ed and Jane Muskie, accompanied by their children and grandchildren, came to celebrate Ed's 80th birthday at the Blaine House, Maine's executive mansion, as the guests of my husband Gov. Jock McKernan and me. It was a great privilege for us to give Ed and Jane and their family an opportunity to come back to a place that held some of their fondest memories. It was a very special time for all of us. And they spent the night. It was a truly honorable moment in my life.

That evening, Ed spoke passionately about the opportunities he enjoyed as a young man, and of the commitment and dedication that his parents had to their family and their community. And he spoke of the love and devotion that his father—a Polish immigrant—had for his new Nation.

He spoke of how much his roots in the small town of Rumford, ME, meant to him. It was those deep roots, along with his strong sense of family, that gave Ed Muskie the foundation upon which he would stand as he became a leading figure in American political life. And he cherished his father's roots, and from the standpoint that he viewed it as America giving every opportunity to anybody who sought to achieve.

I was struck with a very real sense of history listening to his reminiscences during that visit. I do not think it is possible for any Maine politician, regardless of party affiliation, to have come of age during the Muskie era and not have been influenced in some way by his presence. He was that preeminent in the political life of my State.

Ed Muskie was a towering figure in every sense of the word. In his physical stature, in his intellect, in his presence on Capitol Hill, in the extent of his impact on the political life of Maine, and in the integrity he brought to bear in everything he did.

And Ed was thoroughly and proudly a Mainer, with the quiet sense of humor associated with our State. Each year, the distinguished senior Senator entertained guests at the Maine State Society lobster dinner at the National Press Club by rubbing the belly of a live lobster, causing it to fall asleep, something only a real Mainer would know how to do.

Personally, I will always remember and be grateful for the warmth, friendship, and encouragement that Ed Muskie gave me over the years. When I entered the U.S. House of Representatives in 1979, I was the newest member of the Maine congressional delegation. Ed was the dean of the delegation. We were congressional colleagues for only a year and a half, but our friendship lasted throughout the years. And when I was elected to the seat which he had held with such distinction, I was touched by his kindness, and grateful for his advice and counsel.

Throughout his life, he never failed to answer the call of duty. He answered the call from the people of Maine * * * He answered the call from America's rivers and streams * * * And he answered a call from the President of the United States and a worried Nation when Senator Muskie became Secretary of State Muskie in a moment of national crisis.

Mr. President, 75 years before Edmund Muskie was born, another famous Mainer, Henry Wadsworth Longfellow, captured what I believe is the essence of the wonderful man we remember today. Longfellow wrote:

Lives of great men all remind us
we can make our lives sublime,
And, departing, leave behind us
footprints on the sands of time.

Ed Muskie's footprints remain on those sands. They are there as a guide for those of us who would follow in his path. They are big footprints, not easily filled. But we would all do well to try.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I think we are still waiting for the distinguished senior Senator from West Virginia, Senator BYRD. And while we wait, I would like to ask consent that I be permitted to speak for 5 minutes as if in morning business.

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

FORMER SENATOR ED MUSKIE

Mr. DOMENICI. Mr. President, I cannot speak about Senator Ed Muskie with the depth of knowledge that Senator SNOWE had of his background and his impact on his beloved State of Maine. But it has fallen to me to be, at every stage of my growth in the Senate, on a committee with Senator Muskie.

My first assignment was the Public Works Committee. I was the most junior Republican, and Senator Muskie was the third-ranking Democrat and chaired the Subcommittee on the Environment. I also served on that subcommittee. I saw in him a man of tremendous capability and dedication when he undertook a cause. He learned everything there was to learn about it, and he proceeded with that cause with the kind of diligence and certainty that is not so often found around here. There were various times during the evolution of clean water and clean air statutes in the country that we could go in one of two directions, or one of three. Senator Muskie weighed those heavily, and chose the direction and the course that we are on now.

No one can deny that Senator Muskie is the chief architect of environmental cleanup of our air and water in the United States. Some would argue about its regulatory processes, but there can be no question that hundreds of rivers across America are clean today because of Ed Muskie. There can be no doubt that our air is cleaner and safer and healthier because of his leadership. I really do not think any person needs much more than that to be part of their legacy.

But essentially he took on another job, and a very, very difficult one—to chair the Budget Committee of the U.S. Senate. Again, it fell on me as a very young Senator to be on that committee. I have been on it ever since. I was fortunate to move up. He became chairman in its earliest days.

I might just say as an aside that the Chair would be interested in this. When we moved the President's budget—$6 billion in those days—that was a big, big thing, and we had a real battle for it. He would take the Presidents—no matter which ones—on with great, great determination.

But I want to close by saying that one of the things I will never forget about him is that he saw me as a young Senator from New Mexico. I had a very large family. He got to meet them and know them. On a number of occasions he personally said that he would very much like to make sure that we did not do things around here to discourage young Senators like DOMENICI from staying here. I think he was sincere, even though I was on the Republican side. I think he saw us with an awful lot of feeling ourselves up here in trying to establish rules that were very difficult, and he used to regularly say, "I hope this does not discourage you. We need to keep some of you around."

So to his wonderful family and to all of those close to him, you have suffered a great loss, but I can say that his life has been a great legacy for the country. That ought to lend you in these days of sorrow a bit of consolation, because that legacy is great. Death is obviously inevitable. He accomplished great things before that day occurred.

With that, I yield the floor.

LEGISLATIVE LINE-ITEM VETO ACT OF 1995—CONFERENCE REPORT

The Senate continued with the consideration of the conference report.

Mr. DOMENICI. Parliamentary inquiry, Mr. President. What is the pending business?

The PRESIDING OFFICER. The conference report on the line-item veto.

Mr. DOMENICI. Mr. President, for the information of the Senate, we have just discussed the matter of a unanimous-consent agreement with Senator BYRD, and he indicated he is not prepared to enter into that time agreement just now and would like to use some time and get a better feel for himself as to where we are. I have no doubts we will enter into a similar agreement to the one our majority leader indicated, but it will not be forthcoming at this point. I think that is fair statement.

Mr. President, I note in the Chamber the presence of Senator MCCAIN. It is our prerogative as proponents of the conference to lead off, and I wonder if he would like to make a few opening remarks, and then I would make a few, and then perhaps we would yield the floor to Senator BYRD for his opening remarks.

Since there is no time agreement at this point, I yield the floor.

Mr. MCCAIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, I thank the Senator from New Mexico for everything he has done on this issue. The Senator from New Mexico has been around here for a long time and is fully appreciative of the magnitude of what we are about to do. He also has been one who continuously has sought to improve and to make more efficient, and indeed constitutional, this effort, and I am grateful for his continued support.

I also appreciate the very tough and very cogent arguments that he made while we were arriving at this compromise which I think will prevail today. I never underestimate the persuasive powers of the Senator from West Virginia [Mr. BYRD]. I know he will come forward with a very strong and compelling and constitutionally and historically based argument against what we are trying to do today. I will listen as always with attention and respect.

Mr. President, 1 year ago, the Senate began consideration of S. 4, legislation to give the President line-item veto authority. Ten years before that, I began my fight in the Senate to give the President this authority, and 120 years before that Representative Charles Faulkner of West Virginia introduced the first line-item veto bill. Hopefully, a 120-year battle may soon be won. I would like to outline the line-item veto measure agreed to by the conferees. It is a good agreement and a good line-item veto bill.

The conference report amends title X of the Congressional Budget Impoundment Control Act of 1974 to add a new part C comprising sections 1021 through 1027. In general, part C will grant the President the authority to cancel and hold any dollar amount specified in law for the following purposes: First, to provide discretionary budget authority; or second, to provide new direct spending; or third, to provide limited tax benefits contained in any law. Congress has the authority to delegate to the President the ability to cancel specific budgetary obligations in any particular law in order to reduce the Federal budget deficit.

While the conference report delegates these narrow cancellation powers to the President, these powers are narrowly defined and provided within well-defined specific limits.

Under this new authority, the President may only exercise these new cancellation powers if the Chief Executive determines that such cancellation will reduce the Federal budget deficit and will not impair any essential Government function or harm the national interest. In addition, the President must make any cancellations within 5 days of the enactment of the law which contains the items to be canceled and must notify the Congress by transmittal of a special message within that time.

The conference report specifically requires that a bill or joint resolution be signed into law prior to any cancellations from that act. This requirement ensures compliance with the constitutional stipulations that the President enact the underlying legislation presented by Congress after which specific cancellations are then permitted.

We intend that the President be able to use his cancellation authority to

surgically eliminate Federal budget obligations. The cancellation authority does not permit the President to rewrite the underlying law, nor to change any provision of that law.

The terms "dollar amount of discretionary budget authority," "item of new direct spending," and "limited tax benefit" have been carefully defined in order to make clear that the President may only cancel the entire dollar amount, the specific legal obligation to pay, or the specific tax benefit.

"Fencing language" may not be canceled by the President under this authority. This means that the President cannot use this authority to modify or alter any aspect of the underlying law, including any restriction, limitation or condition on the expenditure of budget authority, or any other requirement of the law.

I wish to emphasize this point again. All fencing language is fully protected under this bill.

The lockbox provision of the conference report has also been included to maintain a system of checks and balances in the President's use of the cancellation authority. Any credit for money canceled will be dedicated to deficit reduction. The lockbox requirement ensures that the President does not simply cancel a particular dollar amount of discretionary budget authority, item of new direct spending, or limited tax benefit in order to increase spending in other areas.

The President's special cancellation message must be transmitted to the House of Representatives and to the Senate within 5 calendar days—excluding Sundays—after the President signs the underlying bill into law.

Such special cancellation messages must be printed in the first issue of the Federal Register published after the transmittal.

Upon receipt of the President's special message in both Houses of Congress, each dollar amount of discretionary budget authority, item of new direct spending, or limited tax benefit included in the special message is immediately canceled. The cancellation of a dollar amount of discretionary budget authority automatically rescinds the funds. With respect to an item of new direct spending or limited tax benefit, the cancellation renders the provision void, such that the obligation of the United States has no legal force or effect.

Any such cancellation is reversed only if a bill disapproving the President's action is enacted.

The conference report provides Congress with 30 calendar days of session to consider a disapproval bill under expedited procedures. A "calendar day of session" is defined as only those days during which both Houses of Congress are in session.

I wish to note that the expedited procedures provide strict time limitations at all stages of floor consideration of a disapproval bill. The conference report sets out procedures designed to prevent delaying tactics including but clearly not limited to filibuster, extraneous amendments, repeated quorum calls, motions to recommit, or motions to instruct conferees.

When the President's message is received, any Member may introduce a disapproval bill. The form of the disapproval bill is laid out in the conference agreement. For a disapproval bill to qualify for expedited procedures, it must be introduced no later than the fifth calendar day of session following receipt of the President's special message. Any bill introduced after the fifth day of session is subject to the regular rules of the two Houses.

A disapproval bill introduced in the House of Representatives must disapprove all of the cancellations in the special message. There are no similar requirements in the Senate, except no disapproval bill may contain any legislative language not germane and directly related to the President's cancellation message.

After introduction, a disapproval bill will be referred to the appropriate committee or committees. Any committee or committees of the House of Representatives to which such a disapproval bill has been referred shall report it without amendment, and either with or without recommendation, not later than the seventh calendar day of session after the date of its introduction.

Again, in the Senate, the committee may amend the bill, but it may not offer any amendments beyond the scope of the President's message.

If any committee fails to report the disapproval bill within the requisite time period, then the bill will be discharged from committee.

Procedure for consideration of the disapproval bill in the House of Representatives is noted in the conference report.

In the Senate, a motion to proceed to the consideration of a disapproval bill is not debatable. Section 1025(e)(6), of the bill, provides a 10-hour overall limitation for the floor consideration of a disapproval bill. Except as specifically provided in the bill, this limit on consideration is intended to cover all floor action with regard to a disapproval bill. This section is specifically meant to preclude the offering of amendments or the making of dilatory motions after the expiration of the 10 hours.

Amendments to a disapproval bill in the Senate, whether offered in committee or from the floor, are strictly limited to those amendments which either strike or add a cancellation that is included in the President's special message. No other matter may be included in such bills. To enforce this restriction in the Senate, a point of order, which may be waived by a three-fifths vote, would lie against any amendment that does anything other than strike or add a cancellation within the scope of the special message. To the extent that extraneous items are added to disapproval bills, and the Senate has not waived the point of order against such an item, the conference report intends that such legislation would no longer qualify for the expedited procedures.

In addition, should differing House and Senate disapproval bills be passed and the measure go to conference, the conferees must include any items upon which the two Houses have agreed and may include any or all cancellations upon which the two Houses have disagreed, but may not include any cancellations not committed to the conference.

Once a disapproval bill is passed by the Congress, it is assumed the President would veto the new bill. The President would have to use his constitutional veto authority to do so and could not cancel any part of a cancellation disapproval bill. The Congress would then have to muster a two-thirds vote to override the veto and force the President to spend the money.

Mr. President, there was considerable debate between the two Houses about exactly what the President may veto. In the original version of both S. 4 and H.R. 2, the President was given enhanced rescission authority. This would have allowed the President to veto any dollar amount he saw fit to cut. Some felt this authority would give the President too much power and might result in too much power shifting to the Executive. The compromise developed by the conferees returns to the idea of a line-item veto—in other words, the President can cancel any line.

Let me get a chart here, and demonstrate it very quickly. This is a chart that is very familiar to the conferees, I might add, since we used this during our debate and discussions.

The bill also allows the President to line-item veto—or cancel—new direct spending provisions in law. When the President vetoes these provisions, he is effectively canceling the obligation to pay the new benefits.

The bill also allows the President to line-item veto any targeted, or limited, tax benefits if those benefits effect 100 or fewer individuals.

Mr. President, this is not the approach I would have preferred. I believe that the Senate language developed with Mr. BRADLEY would have been more effective. However, as we all know, compromise often must occur in conference. The results can be seen here.

As I said, I would have preferred to see this issue addressed in a different manner, but the compromise still has teeth and will result in fewer special interest tax breaks and less corporate welfare.

Finally, the bill will become effective on January 1, 1997 or as soon as a balanced budget is signed into law, which ever is first. I want to note that President Clinton has agreed to this effective date. The line-item veto would sunset in 8 years. I would hope that after 8 years of use, the public would realize the value of the line-item veto and we would make this authority permanent. However, the sunset is included in the bill to address the concerns of some Members.

This is the actual language from the report, which calls for $49,846,000 for special grants for agricultural research.

The report language then goes on to state specific parts of the special grants for agricultural research, for example: Wood utilization research in Oregon, Mississippi, North Carolina, Minnesota, et cetera; wool research in Texas, Montana, and Wyoming.

What the President could do is say that he does not approval of wood utilization research in these six States. He could line item out, out of the report language, this $3,758,000, thereby subtracting that $3,758,000 from the $49 million which is in the bill for special grants for agricultural research. That is fundamentally what this line-item veto does. So that what is in the report language affects the original bill.

I was disappointed that the conference was not able to keep the Feingold-McCain emergency spending amendment. However, I have been assured by the staff of the Budget Committee that they would be willing to meet with our respective staffs and develop language to address the Senator from Wisconsin's and my concerns regarding this matter.

Mr. President, the power to line item veto is not new. Every President from Jefferson to Nixon used a similar power. The line-item veto power they exercised ensured that the checks and balances between the congressional and executive branch remained in balance. In 1974, in reaction to the Presidential abuses, the Congress stripped the President of this power. Unfortunately, since that time, the Congress has abused its ability to dictate how money be spent. This bill would restore the checks and balances envisioned by the Founding Fathers.

Further, unlike impoundment power where the President could use appropriated money to fund his priorities over the objections of the Congress, this bill contains a lockbox provision as I have described. Any money line item vetod under this bill could be used only for deficit reduction.

Mr. President, many have characterized this legislation as a dangerous ploy, not as a true budgetary reform. This is not accurate and does not take into account the greater picture of the dangers presented by our out-of-control budget process. The real danger is what has happened to the administration of the American Government. Unnecessary and wasteful spending is threatening our national security and consuming resources that could better be spent on tax cuts, deficit reduction, or health care. I do not make the charge that wasteful spending threatens our national security without a great deal of consideration. After last year's defense appropriations bill, it is unfortunately clear how dangerous this kind of spending can be to our national security. It should now be clear how urgent the need for a line-item veto is.

At a time when thousands of men and women who volunteered to serve their country have to leave military service because of changing priorities and declining defense budgets, we nonetheless are able to find money for billions of dollars of unnecessary spending in the defense appropriation bill. At a time when we need to restructure our forces and manpower to meet our post-cold war military needs, we have squandered billions on pointless projects with no military value.

Mr. President, every Congressman or Senator wants to get projects for his or her district. Everyone wants not only their fair share of the Federal pie for their States, they want more. Therein lies the problem. It is an institutional problem. I am not a saint. But we are trying to make a difference. I am not here to cast aspersions on other Senators who secured an unnecessary project for their States. I am not here to start a partisan fight.

Congress created the problem and its Congress' responsibility to fix it. It is a Congress that has piled up a $5 trillion debt. It is a Congress that is responsible for over a $200 billion deficit this year. It is a Congress that has miserably failed the American people. It is an institution that desperately needs reform.

Anyone who feels that the system does not need reform need only examine the trend in the level of our public debt. As I stated in my analysis of the most recent budget plans, the deficit has continued to balloon and spending continues to increase. In 1960, the Federal debt held by the public was $236.8 billion. In 1970, it was $283.2 billion. In 1980, it was $709.3 billion. In 1990, it was $3.2 trillion, and it is expected to surpass $5 trillion this year.

My colleagues may ask: Why is the line-item veto so important?

Because a President with a line-item veto could help stop this waste. Because a President with a line-item veto could play an active role in ensuring that valuable taxpayer dollars are spent effectively to meet our national security needs, our infrastructure needs, and other social needs without pointless pork barrel spending. And the President can no longer say, "I didn't like having to spend billions on a wasteful project but it was part of a larger bill I just couldn't say no to." Under a line-item veto, no one can hide

According to a recent General Accounting Office study, $70 billion could have been saved between 1984 and 1989, if the President had a line-item veto.

It is important because it can help reduce the deficit. It can change the way Washington operates. Mr. President, we cannot turn a blind eye to unnecessary spending when we cannot meet the needs of our service men and women. We cannot tolerate waste when Americans all over this country are experiencing economic hardship and uncertainly.

The American public deserves better than business as usual. As their elected representatives we are duty bound to end the practice of wasteful and unnecessary spending.

The line-item veto is not a means to encourage Presidential abuse, but a means to end congressional abuse. It will give the President appropriate power to help control spending and reduce the deficit. To anyone who thinks that Congress is fully capable of policing national fiscal affairs, I simply bring to the Senate's attention the $3.7 trillion public debt as irrefutable proof of our inability.

Mr. President, a determined President will not be able to balance the budget with the line-item veto. But a determined President could make substantial progress toward that goal.

I submit that had the President been able to exercise line-item veto authority over the past 10 years the fiscal condition of our Nation would not be nearly as severe as it is today.

With that in mind, I hope the Senate would consider the following quote by a prescient figure in the Scottish Enlightenment, Alexander Tytler. He stated:

> A democracy cannot exist as a permanent form of government. It can exist only until a majority of voters discover that they can vote themselves, largesse out of the public treasury. From that moment on, the majority always votes for the candidate who promises them the most benefit from the public treasury, with the result being that democracy always collapses over a loose fiscal policy.

If our debt surpasses our output, I fear that our democracy may one day collapse over loose fiscal policy.

Today is a historic day. A 120-year battle is coming to a close. The line-item may soon be a reality.

Mr. President, I want to, again, extend my respect and consideration and appreciation for the Senator from West Virginia, with whom I have debated this issue over the last 10 years. I would like to allege I have always prevailed over the Senator from West Virginia both in logic and in humor. I am afraid neither is the case, but I have found him to be a most distinguished opponent, most learned and most dedicated to the proposition to which he is committed.

Mr. President, I yield floor.

Mr. BYRD. Will the Senator yield?

Mr. President, I thank the distinguished Senator for his customarily gracious and courteous remarks concerning me. I wish to respond in kind by saying that, although I adamantly oppose the measure which the distinguished Senator from Arizona and the distinguished Senator from Indiana support, and for which they have fought so long, I have only the utmost respect for both of them. I think that the Senator from Indiana works hard and is dedicated. I serve with him on the Armed Services Committee. I admire him. I consider him to be my friend, and I am sure, regardless of the outcome in this instance, I will remain his friend.

The distinguished Senator from Arizona is a great patriot. He has served his country overseas, and he has served his country in this Chamber. He fights hard and very tenaciously for that in which he believes in the legislative field. He has done so in this instance. I regard him as one of the more skilled and devoted Members of the Senate. I have only the utmost respect for him.

I like to believe before the day is over, I will have prevailed over his position, but that is somewhat doubtful insofar as I am concerned at the moment. But I do respect him, and regardless of how vehemently I may propose my viewpoint, it has nothing to do with my respect for him and my friendship for him.

He also serves on the Armed Services Committee and is one of the outstanding members of that committee.

So with those words of respect, I now yield the floor. It is my understanding Senator DOMENICI plans to speak at this time.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

The Senator from New Mexico is recognized.

Mr. DOMENICI. Mr. President, I want to first acknowledge the hard work and dedication that Senator TED STEVENS from Alaska has put into this conference report. Obviously, there is no Senator here who is more dedicated to our prerogatives as a Senate and our prerogatives as individual Senators, and there is no Senator more concerned about maintaining that power. And, likewise, there is none who understands the effectiveness of the appropriations process any better than Senator TED STEVENS from Alaska, I might say, perhaps with the exception of the distinguished Senator from West Virginia.

Senator STEVENS worked tirelessly to come up with a compromise. He will speak for himself later in the day, but obviously, if there is a hero, he is one of them on this effort.

I have already indicated the two leaders on our side have spent a long period of their Senate life devoted to this, and they took the lead from the beginning. Senator MCCAIN is one, who has just spoken, and I am sure that we will have a number of Senators speak before we are finished. But Senator COATS of Indiana will also be here. Obviously, he is a coleader of this cause. I acknowledge their dedicated effort.

I do not intend to speak very long at this point. We have completed a conference report after months in conference, and I rise in support of the Line-Item Veto Act which is before us.

I cannot emphasize enough the importance of this legislation. I believe it has the potential to fundamentally change the way we make spending decisions in Congress and our relationship to the executive branch. I think the objectives of this legislation are correct. We should enact legislation that facilitates our ability to extract lower priority spending from legislation and to devote that to deficit reduction.

However, I share the concerns of others about this bill's impact on the balance of power between the legislative and executive branch.

I also want to congratulate again the majority leader who brought together a group of Senators with very diverse views and got them to compromise on this final bill. The distinguished chairman of the Governmental Affairs Committee, Senator STEVENS, once again deserves a great deal of credit, for he chaired that effort, that conference and that effort that our leader put together in an effort to resolve differences.

Senators MCCAIN and COATS, as I indicated heretofore, deserve the lion's share of credit for getting this bill where it is. And they have been tenacious advocates, and obviously we will hear from both of them here today.

Mr. President, I made line-item veto legislation a priority for the Budget Committee, because clearly we did not want to be making a point of order under the Budget Act on line-item veto because it came within the purview of legislation that must be considered by the Budget Committee. For a number of years getting this job done has been stopped either by filibuster or point of order. I thought it was time that we get that point of order out of the way and that we do our job and let us work our will.

We moved quickly to hold hearings and report Senate bill No. 4 at the beginning of 1995. If this bill had not been reported, it would have been subject to the point of order, as indicated, and we would probably never be here.

Mr. President, the conference report on this bill essentially adopts the House's enhanced rescission approach. I repeat, this essentially adopts the House's enhanced rescission approach. Essentially that approach was similar to the approach advocated by Senators MCCAIN and COATS and many who followed their lead.

There are a significant number of modifications to the House's enhanced rescission concept and particulars.

One, we sunset this authority after 8 years to give Congress an opportunity to review the President's use of this authority. Some wonder why, but, essentially, if you did not have that, there would be no time when you could change this law over a President's objection without having two-thirds vote here in the Senate, because, indeed, if a President liked it and we did not like it—and there was a real reason for that, to argue that policy issue out—Presidents would veto whatever we sent them.

As a matter of course, we would be saying, regardless of how it is used—and it is a kind of new activity. Even the occupant of the chair, who used it as a Governor, understands and has spoken to me that this is somewhat different in scope when you do it this way, when it is the national picture, and we are treading on some new ground.

So I would have liked a shorter sunset provision, but the House had none. So there are 8 years. We will live through two complete Presidential terms, starting next January, and see how it is working out with reference to a judicious exercise of that new power given to Presidents.

No. 2, the line-item veto applies to all new spending, including new direct spending, that is frequently called entitlements or mandatories. Despite all the rhetoric, the only real deficit reduction this year has been in the area of discretionary spending. I have misstated the number heretofore, and let me be accurate. The only money saved in the balanced budget argument to this point is $12 billion less in spending in the appropriated accounts, domestic, in the year 1995. It is obvious to those who know the budget, we cannot balance the budget or significantly restrain Federal spending by just having a veto over discretionary accounts, nor can we continue the idea and concept that we can balance the budget on the back of the domestic discretionary programs, that spending alone.

We devote any savings from the line-item veto to deficit reduction through a lockbox concept. We clearly define and place restrictions on the President's cancellation authority. The President does not have complete discretion to cancel items in laws. He can only cancel entire items in laws or accompanying reports.

Moreover, the bill makes clear he can cancel only budgetary obligations. He cannot use his authority under any circumstance to change the provisions of

law, that is, to write law in an appropriations bill.

We strengthen the expedited procedures for congressional consideration of a bill to disapprove of a President's cancellation of an appropriation, either the line item or direct spending or the limited tax benefit, which has been described by my friend from Arizona. I will not go into it any further now other than to say this bill, as it left the Senate, carried with it an expanded concept of what ought to be subject to cancellation.

The two things included here that were not historically considered were targeted taxes, that is, very special and direct taxes that benefit a small group of people or institutions, and new additional mandatory or direct expenditures, not vetoing entitlements, but if you create a new one that spends more money, the President has one opportunity to address that.

Frankly, I think both are fair because if the statement, that is clear, that appropriated accounts alone do not create the problem of deficit spending, nor are they the only area where special attention is made to special needs of special constituents by legislators, the same is done in tax bills and the same is done in entitlements.

Clearly, the President, if he is going to have a chance to get at and cancel budget authority, obligational authority for appropriated accounts, both domestic and defense, he ought to have a similar authority. This last part that I have just described is truly an experiment, but we worked as diligently as we could to make it clear and to make sure that everyone would understand what the conferees had in mind on direct or mandatory expenditures and targeted tax expenditures.

Again, I congratulate Senators DOLE, MCCAIN, and my cohort who chaired this conference, the distinguished Senator from Alaska, Senator TED STEVENS. This is a remarkable achievement on their part. While it will be contested here today, I do not believe it will be contested that this is some very far-reaching legislation, that those who think change is good will clearly understand that this is a formidable event in the ever-changing landscape of the legislation that Congress considers and finally passes.

There will be a number of Senators who oppose this. Clearly, I want to say right up front that the distinguished Senator from West Virginia, former chairman of the Appropriations Committee, majority leader, minority leader of this U.S. Senate, will oppose this. He will be listened to. The concerns he expresses will not be light concerns. They will be important concerns.

Many of us have agreed with him in the past, and we have concerns about the legislation. However, we have come to the conclusion—many on the Appropriations Committee, or a number, will support this legislation—that the time is now to give line-item veto a chance, to get it over to the President who will sign it. First get it to the House, they will adopt it, and then go to work on making it work come January.

Now, we have not yet agreed upon the time that will be taken here because, quite appropriately, the distinguished Senator from West Virginia wants to watch his time carefully, not only for himself but some of his advocates.

When we started here on the floor, before a word was said, the distinguished Senator from West Virginia, in his usual style and gracious, gracious demeanor and respect for the institution, shook the hand of Senator MCCAIN and Senator DOMENICI and indicated his respect, but indicated in this particular measure he did not agree. That is a great part of our Senate heritage. He disagrees. He will have his day. We disagree with Senator BYRD. We will have our day. I hope in the end we will have a majority of Senators supporting what we propose. I yield the floor.

(Mr. KYL assumed the chair.)

Mr. BYRD. Mr. President, "I am no orator, as Brutus is. But as you know me all: a plain blunt man * * * for I have neither wit, nor words, nor worth, action, nor utterance, nor the power of speech to stir men's blood. I just speak right on. I tell you that which you yourselves do know. * * *"

Mr. President, the Senate is on the verge of making a colossal mistake. The distinguished Senator from New Mexico was correct when he spoke of this measure as being a formidable measure, a far-reaching measure, a measure that will produce a sea change in the relationship between the executive and the legislative branch.

Let me say at the outset that I have only the utmost respect for the distinguished, the very distinguished Senator from New Mexico. He is one of the brightest Senators that I have seen during my 38 years in this body. He understands the budget process, in all likelihood, better than anyone else in this Chamber on either side of the aisle. He is skillful, he is dedicated, he is tenacious, and, of course, he is fighting for what he believes today. I cannot help but think, however, that in his heart of hearts, he would rather be supporting a more moderate measure than this that is before him. But I have no right to attempt to look into his mind or into his heart.

The Senate, you mark my words, is on the verge of making a colossal mistake, a mistake which we will come to regret but with which we will have to live until January 1 of the year 2005, at the very least. We are about to adopt a conference report which will upset the constitutional system of checks and balances and separation of powers, a system that was handed down to us by the Constitutional Framers 208 years ago, a system which has served the country well during these two centuries, a system that our children and grandchildren are entitled to have passed on to them as it was handed down to us.

And as I comprehend the appalling consequences—they may not become evident immediately, but in due time they will be seen for what they are—as I comprehend the appalling consequences of the decision that will, unfortunately, likely have been rendered ere we hear "the trailing garments of the Night sweep through these marble halls," I think of what Thomas Babington Macaulay, noted English author and statesman, wrote in a letter to Henry S. Randall, an American friend, on May 23, 1857:

> Either some Caesar or Napoleon will seize the reins of government with a strong hand; or your republic will be as fearfully plundered and laid waste by barbarians in the Twentieth century as the Roman Empire was in the Fifth—with this difference . . . that your Huns and Vandals will have been engendered within your own country by your own institutions.

The Senate is about to adopt a conference report, Mr. President, which Madison and the other Constitutional Framers and early leaders would have absolutely abhorred, and in adopting the report we will be bartering away our children's birthright for a mess of political pottage.

The control of the purse is the foundation of our constitutional system of checks and balances of powers among the three departments of government. The Framers were very careful to place that control over the purse in the hands of the legislative branch. There were reasons therefor.

The control over the purse is the ultimate power to be exercised by the legislative branch to check the executive. The Romans knew this, and for hundreds of years, the Roman Senate had complete control over the public purse. Once it gave up its control of the purse strings, it gave up its power to check the executive. We saw that when it willingly and knowingly ceded its powers to Julius Caesar in the year 44 B.C. Caesar did not seize power, the Senate handed power over to Caesar and he became a dictator. History tells us this, and history will not be denied.

The same thing happened when Octavianus, later given the title of Augustus in the Roman Senate, when in 27 B.C. the Senate capitulated and yielded its powers to Augustus, willingly desiring to shift from its own shoulders responsibilities of government. When it gave to him the complete control of the purse, it gave away its power to check the executive.

Anyone who is familiar with the history of the English nation knows that our British forebears struggled for centuries to wrest the control of the purse from tyrannical monarchs and place it

in the hands of the elected representatives of the people in Parliament. Perhaps it would be useful for us to review briefly the history of the British Parliament's struggle to gain control of the purse strings, particularly in view of the fact that the Constitutional Framers in 1787 were very much aware of the history of British institutions, and were undoubtedly influenced in considerable measure by that history and by the experiences of Englishmen in the constitutional struggle over the power of the purse.

Cicero said that "one should be acquainted with the history of the events of past ages. To be ignorant of what occurred before you were born is to remain always a child. For what is the worth of human life, unless it is woven into the life of our ancestors by the records of history?"

To better understand how our own legislative branch came to be vested with the power over the purse, it seems to me that one should examine not only the roots of the taxing and spending power but also the seed and the soil from which the roots sprang and the climate in which the tree of Anglo-American liberty grew into its full flowering, because only by understanding the historical background of the constitutional liberties which we Americans so dearly prize can we fully appreciate that the legislative control of the purse is the central pillar—the central pillar—upon which the constitutional temple of checks and balances and separation of powers rests, and that if the pillar is shaken, the temple will fall. It is as central to the fundamental liberty of the American people as is the principle of habeas corpus, although its genesis and raison d'etre are not generally well understood. Therefore, before focusing on the power over the purse as the central strand in the whole cloth of Anglo-American liberty, we should engage in a kaleidoscopic viewing of the larger mosaic as it was spun on the loom of time.

Congress' control over the public purse has had a long and troubled history. Its beginnings are imbedded in the English experience, stretching backward into the middle ages and beyond. It did not have its genesis at the Constitutional Convention, as some may think, but, rather, like so many other elements contained in the American Constitution, it was largely the product of our early experience under colonial and State governments and with roots extending backward through hundreds of years of British history predating the earliest settlements in the New World.

Notwithstanding William Ewart Gladstone's observation that the American Constitution "is the most wonderful work ever struck off at a given time by the brain and purpose of man,"—although there is some question with regard to that quotation—the Constitution was, in fact, not wholly an original creation of the Framers who met in Philadelphia in 1787. It "does not stand in historical isolation, free of antecedents," as one historian has noted, but "rests upon very old principles—principles laboriously worked out by long ages of constitutional struggle." The fact is, Gladstone himself, contrary to his quote taken out of context, recognized the Constitution's evolutionary development.

British subjects outnumbered all other immigrants to the colonies under British dominion. The forces of political correctness are trying to change American history these days, but it cannot be changed. The very first sentence of Muzzey's history, which I studied in 1928, 1929, and 1930—the very first sentence—says: "America is the child of Europe." America is the child of Europe, political correctness notwithstanding.

They brought with them—those early settlers from England—the English language, the common law of England, and the traditions of British customs, rights, and liberties. The British system of constitutional government, safeguarded by a House of Commons elected by the people, was well established when the first colonial charters were granted to Virginia and New England. It was a system that had developed through centuries of struggle, during which many of the liberties and rights of Englishmen were concessions wrung—sometimes at the point of the sword—from kings originally seized of all authority and who ruled as by divine right.

The Constitutional Framers were well aware of the ancient landmarks of the unwritten English constitution. Moreover, they were all intimately acquainted with the early colonial governments and the new state constitutions which had been lately established following the Declaration of Independence and which had been copied to some degree from the English model, with adaptations appropriate to republican principles and local conditions. Let us trace a few of the Anglo-Saxon and later English footprints that left their indelible imprint on our own constitutional system.

Since time immemorial, Anglo-Saxon and later English kings had levied taxes on their subjects with the advice and consent of the witenagemot or the Great Council. When Parliament later grew out of the Great Council, and when knights and burgesses from the shires and boroughs, and representatives from the town and rural middle class were chosen to participate in Parliament, the king sought approval, from this representative body, of revenues for the operation of government, the national defense, and the waging of wars.

In return for its approval of the sovereign's request for money, Parliament learned that it could secure the redress of grievances and exact concessions from the king. You are asking for money? Then we, the people's representatives, want this first. Make these concessions, and then we will vote you the money. If he resisted, then Parliament would refuse to grant funding requests and new taxes. In 1297, almost 700 years ago now, Edward I reluctantly agreed to the "Confirmation of the Charters," and, in doing so, he agreed, under clause 6 of the Parliamentary document, that is the future he would not levy "aids, taxes, nor prices, but by the common consent of the realm." The significance of the event was twofold. In the first place, it was henceforth necessary that representatives of the whole people, and especially the middle class, be summoned to all Parliaments where any non-feudal taxation proposals were to be considered. Moreover, and of even greater importance, the control of the purse was lodged in Parliament, and this was a power that Parliament would frequently use to check the abuse of royal authority and to persuade the king to grant concessions.

This is the meat of the coconut. On two occasions in Edward II's reign (1307–1327), Parliament had asked for a redress of grievances before it granted taxes on personal property, and in both cases, the substance of Parliament's petitions were approved and enacted into statutes by the king. On one of these occasions, in 1309, the Commons granted a subsidy "upon this condition, that the king should take advice and grant redress upon certain articles wherein they are aggrieved." Members of Congress should take note.

There are early instances of the allocation of funds for specific purposes, such as the Danegeld, which was a land tax levied to meet requirements arising from Danish invasions and to buy off the invaders. It usually was two shillings on each hide of land. It continued for some time after the danger of Danish invaders had passed, and, as a land tax, it was revived by William the Conqueror for specific emergency purposes such as defense preparations in 1084, when the King of Denmark threatened to enforce his claim to the English throne. Although continued as a land tax under William I's successors, its original character was lost, and its name, the Dangeld, fell into disuse in 1163, during the reign of Henry II. It became a source of revenue for general purposes.

Feudal charges were levied by kings before the creation of Parliament and appropriated for specific purposes. For example, scutage, a tax levied upon a tenant of a knight's fee in commutation for military service, was assigned to the financing of military measures. Funds collected to buy Richard I's freedom were paid into a special "exchequer of ransom." The Saladin tithe was

applied to financing the costs of a crusade, as were specific grants for Holy Land conquests in 1201, 1222, and 1270. In 1315, the Barons successfully insisted that Edward II's personal expenditures be limited to Pounds Sterling, 10 a day. By Edward III's day (1327–1377), it was becoming customary to attach conditions to money grants. Parliament often insisted that the money granted should be spent for certain specified purposes, and for no others.

In 1340, a grant was made by Commons to the king on the condition that it "shall be put and spent upon the Maintenance and Safeguard of our said Realm of England, and on wars in Scotland, France, and Gascoign, and in no places elsewhere during the said Wars." In 1344, a two-year subsidy was granted and appropriated specifically for the war in France and for defense of the North against invasion by the Scots. Two years later, and again in 1348, it was stipulated that the aid must be used for defence against the Scots. Parliament granted a subsidy to Richard II in 1382 with the express provision that it go to "the improvement of the defence of the realm of England and the keeping and Governance of his Towns and Fortresses beyond the Sea." The expenses of Henry IV's coronation, who reigned from 1399 to 1413, were funded by a special appropriation.

Sometimes, treasurers were appointed for overseeing a particular subsidy to ensure that the money was spent in accordance with the terms specified in the appropriations. Ship money was levied in early times in port cities to provide for naval maintenance and upkeep, the assumption being that the ports were the primary beneficiaries of a strong navy and were safeguarded from invasion by it. In 1382, the revenues from tonnage and poundage were specified for application to the safe keeping of the sea.

Some of the early appropriations went into details. For instance, a grant was made to Edward IV in 1472 to cover the expenses of 13,000 archers for one year at a daily wage of sixpence. Another grant was made by Commons to Edward IV in 1475 for his war in France on the condition that his departure for France be no later than St. John's Day in 1476, and he was not to receive the money until his ships were actually ready to leave for France.

Wool subsidies were specifically appropriated, on occasion, for defraying the cost of the garrison of Calais. The terms of numerous grants from the 14th century to the 17th century required the application of customs receipts to the defense of the country against invasion and to the protection of ships against pirates and hostile navies. The preamble to the subsidy Act of 1558–9 quoted Edward I as having recognized that his predecessors "tyme out of mynde have had enjoyed unto them, by authoritie of Parliament, for the defence of the Realms and the happy saulfguarde of the Seas" the proceeds of customs charges on certain goods.

Following the Restoration in 1660, Commons aimed at keeping Charles II short of funds to prevent the maintenance of a large standing army in time of peace. This was in contrast to their willingness to make grants for the navy, and they took precautions to ensure that appropriations for the Navy were spent for that purpose and no other, as, for example, in 1675, it was provided that the funds "for building ships shall be made payable into the Exchequer, and shall be kept separate, distinct, and apart from all other monies, and shall be appropriated for the building and furnishing of ships, and that the account for the said supply shall be transmitted to the Commons of England in Parliament."

The principle of appropriating the supplies (sums of money) for specific purposes only, instead of placing the funds without reserve into the king's hands, dates back at least as far as 1340. Here, then, as early as the mid-1300's—650 years ago—was the beginning of the current system of congressional appropriations as we know it. Members of Congress should be aware of the venerableness of this aspect of the modern appropriations process. It was not something that was conceived just yesterday and did not just come out of the woodwork.

After the Commons and Lords separated into two houses in the early 1300's, around 1339, 1340, and 1341, the House of Commons reserved to itself the power to initiate tax and money bills.

In 1395, the grant to the king, Richard II, was made "by the commons with the advice and consent of the lords." It started out in the commons. In 1407, the king—Henry IV, the former duke of Lancaster—agreed that he would listen to reports about money grants only "by the mouth of the speaker of the Commons." The right of the commons to originate taxes and money grants was a right by custom, not a statutory right, but it was a custom that was not easily shaken. For example, Henry IV had failed in 1407 when he tried to proceed first through the House of Lords. The Commons refused to accept such "a great prejudice and derogation of their liberties." The U.S. Constitution, in Article I, reflects the very same principle: "All Bills for raising revenue shall originate in the House of Representatives."

As the years passed, Parliament extended its power in the control of government expenditures and the earmarking of appropriations of money for particular purposes. Almost always it was specified that general taxes to the king were for national defense, a part of the custom on wool was to be used for the maintenance of Calais, as I have earlier stated, and the tunnage and poundage tax was to be spent for such specific purposes as the navy and "the safeguarding of the sea and in no other way." The royal income was to be used for the expenses of the royal household.

During the Commonwealth, the House exercised full control over government expenditures, and after the Restoration in 1660, the House claimed, and Charles II grudgingly conceded, the right of appropriation in the Appropriation Act of 1665. From that time, it became an indisputable principle that the moneys appropriated by Parliament were to be spent only for the purposes specified by Parliament. Since the reign of William and Mary (1689–1701), a clause was inserted in the annual Appropriation Act forbidding—forbidding under heavy penalties—Lords of the Treasury to issue, and officers of the Exchequer to obey, any warrant for the expenditure of money in the national treasury, upon any service other than that to which it was distinctly appropriated.

The right of Parliament to audit accounts followed, as a natural consequence, the practice of making annual appropriations for specified objects. Even as early as 1340, a committee of Parliament was appointed to examine into the manner in which the last subsidy had been expended. Henry IV resisted a similar audit in 1406, but in 1407 he conceded Parliament's right to look at the ways the appropriations were spent. Such audits became a settled usage.

These two principles—that of appropriations and that of auditing—were united by the framers in a single paragraph of Article I, section 9, of the U.S. Constitution: "No Money shall be drawn from the Treasury, but in Consequence of Appropriations made by Law; and a regular Statement and Account of the Receipts and Expenditures of all public Money shall be published from time to time."

So, Mr. President, as we can see, legislative control over taxation bears close relation to the history of Parliament. The witenagemot possessed the right of advice and consent regarding taxation, although the right was probably exercised only rarely because the royal needs in the Anglo-Saxon era were normally supplied by income from royal farms, fines, and payments in kind or the quasi-voluntary tribute paid by the kingdom to its sovereign. The Norman kings exacted feudal aids and other special varieties of taxation, retaining and adding to the imposts of Saxon kings. But there is scant evidence as to what extent the council was asked by the kings. Although a tax in the reign of Henry I (1100–1135) was described as the "aid which my barons gave me," it appears that until the time of Richard I (1189–1199), the king usually merely announced in assembly

the amounts needed and the reasons for his imposing subsidies. By the feudal doctrine, the payer of a tax made a voluntary gift for relief of the wants of his ruler.

Magna Carta (1215) provided that, except for three feudal aids, no tax should be levied without the assent of a council duly invoked. But as the burden of taxation increased, the necessity for broadening the tax base to all classes of society also increased. Hence, the establishment of the representative system is Parliament had its essential origin in the necessity for obtaining the consent, by chosen proxy, of all who were taxed. After the "Confirmation of the Charters" in 1297, the right of the people of the realm to tax themselves through their own chosen representatives became an established principle. The Petition of Rights, reluctantly agreed to by Charles I in 1628, emphatically reaffirmed the principle. Charles had attempted a forced loan in 1627 to meet his urgent money needs. This was, in effect, taxation without parliamentary sanction, and many refused to contribute, whereupon Charles arbitrarily imprisoned several persons who would not pay. When he called Parliament into session the next year, twenty-seven members of the new house had been imprisoned for failure to pay the forced loan. When Charles demanded the money he so desperately needed, the commons paid no attention. They decided almost at once to put their major grievances in a Petition of Rights. Among these, the Petition asked that arbitrary imprisonment should cease and that arbitrary taxation should cease and "no man hereafter be compelled to make or yield any gift, loan, benevolence, tax, or such like charge, without common consent by Act of Parliament." When Charles granted the Petition of Rights, the Commons voted him taxes.

The insistence by Charles I that he possessed a divine right to levy taxation and could seek funds directly from citizens, created the conditions for civil war in England. James I had decided to raise revenue by imposing an import duty on almost all merchandise, and the political struggle intensified when Charles acted to levy tonnage and poundage without parliamentary authority. After the House of Commons passed the Petition of Rights, it also moved to curb the King's power to raise revenue from customs duties, precipitating another clash with Charles.

Charles I tried to govern without Parliament by resorting to various means of raising revenue. Additional Knighthoods were created, requiring the beneficiaries to pay a fee to the King. Those who refused were fined. Other efforts to raise money led to increased resentment from citizens and threw the country into a state of crisis. Charles lost both his throne and his head.

The Bill of Rights, to which William III and Mary were required to give their assent before Parliament would make them joint sovereigns, declared "that levying money for or to the use of the crown, by pretense of prerogative, without grant of Parliament, for longer time, or in other manner than the same is or shall be granted, is illegal."

It was the violation of this constitutional principle of taxation by consent of the taxpayers, through their chosen representatives, that led to the revolt of the colonies in America. The Declaration of Independence explicitly names, as one of the reasons justifying separation from England, that of her "imposing taxes on us without our consent."

There is, then, a certain historic fitness in the fact that first among the powers of Congress enumerated in Article I, section 8, of the Constitution is the power "to lay and collect taxes." The power to appropriate monies is also vested by Article I solely in the legislative branch—nowhere else; not downtown, not at the other end of Pennsylvania Avenue, but here in the legislative branch.

Mr. President, we have all perhaps been subject to the notion that the Federal Constitution with its built-in systems of checks and balances, was an isolated and innovative new instrument of government which sprang into existence—sprang into existence—during three months of meetings behind closed doors in Philadelphia, and that it solely was the product of the genius of the Framers who gathered there behind closed doors to labor to make it come about. However, as I have also said heretofore, American constitutional history can only be fully understood and appreciated by looking into the institutions, events, and experiences of the past out of which the organic document of our nation evolved and took unto itself a life and soul of its own.

To ascertain the origin of the Constitution, then, it must be sought among the records treating of the fierce conflicts between kings and people—it cannot be found just in Madison's notes, but it must be sought among the records of treating fierce conflicts between kings and people—the evolution of chartered rights and liberties, and the development of Parliament in the island home of those hardy forebears who crossed the Atlantic to plant new homes in the wilderness and who transplanted to the English colonies of the New World the familiar institutions of government which would assure to them the rights and liberties which they, as British subjects in a new land, held to be their due inheritance.

The U.S. Constitution was, in many ways, the product of many centuries—many centuries—and it was not so much a new and untried experiment as it was a charter of government based to some extent on the British archetype, as well as on State and colonial models which had themselves been influenced by the British example and by the political theories of Montesquieu and others, who believed that political freedom could be maintained only by separating the executive, legislative, and judicial powers of government, which powers, when divided, would check and balance one another, thus preventing tyranny by any one man, as had been the case in France.

Moreover, unlike the British Constitution, which, as I say, was, generally, an unwritten constitution consisting of written charters, common law principles and rules, and petitions and statutes of Parliament, the American Constitution was a single, written document that was ratified by the people in conventions called for the purpose.

In a real sense, therefore, the U.S. Constitution was an instrument of government that was the result of growth and experience and not manufacture, and its successful ratification was, in considerable measure, due to the respect of the people for its roots deep in the past. The mainspring of the constitutional system of separation of powers and delicate checks and balances was the power over the purse, vested—where? Here in the legislative branch. That power guaranteed the independence and the freedom and the liberties of the people.

James Madison, who is justly called the father of the Constitution, summed up, in a very few words, the significance of the power over the purse in the preservation of the people's rights and liberties, and the fundamental importance of the retention of that power by the people's elected representatives in the legislative branch.

He did this in the Federalist No. 58, in which he referred to the House of Representatives and said:

> They in a word hold the purse; that powerful instrument by which we behold in the history of the British constitution, an infant and humble representation of the people, gradually enlarging the sphere of its activity and importance, and finally reducing, as far as it seems to have wished, all the overgrown prerogatives of the other branches of the government. This power over the purse, may in fact be regarded as the most compleat and effectual weapon with which any constitution can arm the immediate representatives of the people, for obtaining a redress of every grievance, and for carrying into effect every just and salutary measure.

Let me repeat just the last portion of the words by Madison.

> This power over the purse, may in fact be regarded as the most compleat and effectual weapon with which any constitution can arm the immediate representatives of the people, for obtaining a redress of every grievance, and for carrying into effect every just and salutary measure.

Mr. President, the elected representatives of the people in this body should

remember those weighty words by Madison, the father of the Constitution. If they wish to know the value of constitutional liberty, they might retire to those words and read.

Mr. President, to alter the constitutional system of checks and balances, by giving the executive—any executive, any President, Democrat or Republican—a share in the taxing or appropriations power through the instrument of an item veto or enhanced rescission would, in my view, be rank heresy. As we have seen, the entrusting of the power over the purse to the legislative branch was no accident of history but rather the result of over 600 years of contest with royalty. To chisel away this rock, that through bloody centuries has undergirded the hard-won, cherished rights of freemen in England and in America, should be anathema to any informed and thoughtful citizen in these United States.

To quote Aristotle: "Of all these things the judge is Time." From our vantage point, then, Mr. President, as we take the long look backwards into the murky past, history clearly teaches us that the power over the purse—the power to tax and to appropriate funds—wisely came to be lodged, more than 600 years ago, in the directly elected representatives of the people; that this principle lies at the foundation, and is a chief source, of our liberties; and that it is not a power that should be shared by a king or a President.

That our own Constitutional Framers clearly intended for the power over the purse to be solely in the hands of the elected representatives of the American people, we have only to review the words of Madison and Hamilton as they appeared in the Federalist Papers.

Hamilton in the Federalist #78 stated: "The legislature not only commands the purse, but prescribes the rules by which the duties and rights of every citizen are to be regulated."

Madison in the Federalist #48 stated, "The legislative department alone has access to the pockets of the people." In Federalist Paper #58—as I have already pointed out—Madison stated: "This power over the purse may, in fact, be regarded as the most compleat and effectual weapon with which any constitution can arm the immediate representatives of the people, for obtaining a redress of every grievance and for carrying into effect every just and salutary measure."

Thus, the founders of this republic left no doubt as to what branch of the government had control over the purse strings. The Executive was not given any control over the purse strings, with the single exception of the right of the President to veto, in its entirety, a bill—any bill—and in this case a bill making appropriations.

There was little discussion of the Presidential veto at the convention, as a reading of the convention notes will show. There was absolutely no discussion whatsoever with reference to a line item veto or any such modification thereof as we are now contemplating. Henry Clay, one of the greatest Senators of all time, in a Senate Floor speech on January 24, 1842, referred to the veto as "this miserable despotic veto power of the President of the United States." That is what he thought of a Presidential veto. It is not hard to imagine what Henry Clay would think of this conference report that is before the Senate today.

It is ludicrous—nay, it is tragic—that we are about to substitute our own judgment for that of the Framers with respect to the control of the purse and the need to check the Executive. Yet, that is precisely what we are about to do here today. We are about to succumb, for political reasons only, to the mania which has taken hold of some in this and the other body to put that most political of political inventions, the so-called "Contract with America" into law.

Saying this, I do not question but that some Senators genuinely, sincerely, and conscientiously believe that this is the right thing to do, and that this is the way to get a handle on the budget deficits.

To quote Homer in "The Iliad": "Not if I had ten tongues and ten mouths, a voice that could not tire, lung of brass in my bosom", would I be able to persuade those who are motivated by political expediency that future generations will condemn their shortsightedness and hold them responsible for the damage to our constitutional system that will be wrought by this radical shift of power from the legislative to the executive branch. "Who saves his country, saves all things, saves himself, and all things saved do bless him; Who lets his country die, lets all things die, dies himself ignobly, and all things dying curse him."

Most Presidents in recent times have espoused the line-item veto. I fought against surrendering this power to President Reagan, I fought against surrendering the power to President Bush, and I just as fervently oppose giving President Clinton—or any other President—a line-item veto or any modification thereof. I have taken an oath many times to support and defend the Constitution of the United States. My contract with America is the Constitution of the United States. I paid 15 cents for this copy several years ago. It cost $1, I think, now. There it is, well-worn, taped together, and pretty well marked up. But that is my contract with America.

So I have taken an oath many times to support and defend this contract with America, the Constitution of the United States, and I do not intend to renege on my sworn oath by supporting this conference report. It is a malformed monstrosity, born out of wedlock. Although the House voted on this version of the so-called line-item veto, the Senate did not. That is why I would say it was born out of wedlock.

It is a profanation of the temple of the Constitution which the Framers built, and it will prove to be an ignis fatuus in achieving a balanced budget. Its passage will effectuate a tremendous shift of power from the legislative branch to the Executive Branch, and it will be used as a club to be held over the head of every member of the United States Senate and House of Representatives by power hungry Presidents who will seek to impose their will over the legislative process to the detriment of the American people, whose elected representatives in Congress will no longer be free to exercise their judgment as to what matters are in the best interests of the states and the people whom they serve.

This so-called line-item veto act should be more appropriately labeled "The President Always Wins Bill." From now on, the heavy hand of the President will be used to slap down Congressional opposition wherever it may exist. Yet, I have no doubt that this measure will pass. Political expediency will be the order of the day, for we are like Nebuchadnezzar, dethroned, bereft of reason, and eating grass like an ox.

"O, that my tongue were in the thunder's mouth! Then with a passion would I shake the world."

The efforts of those who oppose this surrender of power to the President may be likened to the last stand of General George Armstrong Custer, who with 200 of his followers, were wiped out by the Indians at the Battle of the Little Big Horn, in Montana, in 1876, but I see this as the Battle of the "Big Giveaway", and I do not propose to go along.

As a matter of fact, I do not believe that it is within the capability of Congress to give away such a basic Constitutional power as the control over the purse strings, because that is the fundamental pillar upon which rests the Constitutional system of separation of powers and checks and balances.

I know there are those who say that it will only be for 8 years—from January 1, 1997, to January 1, in the year 2005. Senators will note that the bill does not take effect upon passage, upon enactment, the reason being that the majority party does not want to give this President this line-item veto. He may use it against them. And so they have crafted the date to follow the next election so that if President Clinton is able to use this ill-begotten measure at all, he would have to be reelected before he can do it. So they say it will only be for 8 years.

I do not believe that the constitutional powers of Congress can be so cavalierly shifted to the executive branch, whether it be for 8 years or for 1 year or for 6 months.

It is instructive to reflect on what George Washington had to say about checks and balances and separation of powers in his Farewell Address, and I shall quote therefrom: "It is important that the habits of thinking in a free country should inspire caution in those entrusted with its administration to confine themselves within their respective constitutional spheres, avoiding in the exercise of the powers of one department, to encroach upon another. The spirit of encroachment tends to consolidate the powers of all the departments in one, and thus to create, whatever the form of government, a real despotism. * * * The necessity of reciprocal checks in the exercise of political power, by dividing and distributing it into different depositories, and constituting each guardian of the public weal against invasions of the others, has been evinced by experiments ancient and modern * * * To preserve them must be as necessary as to institute them. If, in the opinion of the people, the distribution or modification of the constitutional powers be in any particular wrong, let it be corrected by an amendment in the way which the Constitution designates."

It is my firm belief that we are about to enact legislation that is clearly unconstitutional, and I fervently hope that it will be struck down by the courts. But it might not be. In any event, this possibility does not relieve us of our own responsibility to make a judgment regarding the constitutionality of a measure which we are about to enact. Our oath to support and defend the Constitution against all enemies, foreign and domestic, requires no less of us than this. But I fear that the die, as Caesar said in the year 49 B.C. as he stood before the Rubicon, is cast. Before this day has ended, the Senate will have turned its back in all probability on the Constitution and partially disenfranchised the very people we are charged to represent, and it will have done so to its own great shame.

The Policraticus of John of Salisbury, completed in 1159, we are told, "is the earliest elaborate mediaeval treatise on politics." In it, we find a reference to the House of Caesar and an account of the means by which each in this line of Roman rulers came to his end. Julius, as we all know, was done to death in 44 B.C., at the hands of Brutus, Cassius, and others as they gathered on the Ides of March where the Senate was meeting. When Caesar saw those about him with their daggers drawn, he veiled his head with his toga and drew down its folds over his eyes that he might fall the more honorably.

Nero, who reigned from 54 to 68 A.D., after he had heard that the Senate had condemned him to death, begged that someone would give him courage to die by dying before him as an example. When he perceived that the horsemen were drawing near, he upbraided his own cowardice by saying, "I die shamefully." So saying, he drove the steel into his own throat and thus, says John of Salisbury, came to an end the whole house of the Caesars.

Here, now, we see in the proposal before us, the Legislative Branch being offered the dagger by which, with its own hands, it too may drive the steel into its own throat and thus die shamefully.

I say to Senators, beware of the hemlock. Let us pause and reject this measure lest the "People's Branch" suffer a self-inflicted wound that would go to the heart of the Constitutional system of checks and balances—the power over the purse, a power vested by the Constitution in the Legislative Branch, and in the Legislative Branch only.

Section 9, article I of the Constitution says, "No money shall be drawn from the Treasury, but in consequence of appropriations made by law." And in the very first section of article I, it says, "All legislative powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and a House of Representatives."

So here is where the power is vested to pass a law, to enact a law, to amend a law. But this conference report will change that. It will place into the hands of the Chief Executive a power which in essence will be a power to amend not only a bill but a law. A bill which has already been signed into law by the President can then within the next 5 days be amended almost single handedly by him by way of the rescissions process which is a loaded dice procedure. He cannot lose.

Now, let us take a look at this conference report and examine it.

For the record, let it be noted that this measure is not a true line-item veto. A true line-item veto would allow the President to actually line out items with which he did not agree in an appropriations bill or, depending on how such legislation were to be written, in any other bill that would come across his desk for signature.

And in some States he may not only line out the item but he may reduce the item. He may line out language. But we are talking about the line-item veto on the Federal level.

The measure before us would allow the President not to line out items in a bill, but rather to send special messages to Congress deleting or rescinding certain items from bills after he has signed them into law. Not only that, but this measure will also allow any President to rescind portions of spending measures that are contained in their accompanying tables, committee reports, or statements by the managers on the part of the conferees of both Houses. This approach is actually far more effective in getting at "presidentially-deemed" unacceptable spending than would be a direct line-item veto authority. This is so because bill language does not lend itself to specificity, and line-item veto authority would force the President to eliminate large lump sums in order to get at specific items he did not like, when perhaps he was in agreement with most of the spending in the lump sum.

The conference report would have the effect of stripping from the people's elected representatives, in Congress—the President is not directly elected by the people. The President is indirectly elected by the people. We are the elected representatives of the people. And here, in this forum of the States, we represent the States and the people.

It would take much of that power and place it, instead, in the hands of the occupant of the Oval Office and his unelected bureaucrats. This conference report effectively places in the hands of the President and unelected bureaucrats—I do not use those words pejoratively, but they are unelected and they are bureaucrats. And we have to have them. But, it places in the hands of the President and unelected bureaucrats, ultimate control over the Nation's finances.

I implore Senators, I beseech, I importune Senators to carefully read the conference report, to see how this is done. It is all plainly there in black and white. And it is a "heads-I-win, tails-you-lose" proposition for the President of the United States. It is an eye opener. Read it, Senators.

Section 1021(a) of this conference agreement would allow the President to cancel in whole—(1) any dollar amount of discretionary budget authority; (2) any item of new direct spending—see, it does not get into entitlements that are already in the law, and they are what is causing the budget deficits, but they escape the reaches of this conference report—any item of new direct spending; or (3) any limited tax benefit; as long as the President notifies the Congress "within 5 calendar days (excluding Sundays) after the enactment of the law providing the dollar amount of the discretionary budget authority, item of new direct spending, or limited tax benefit that was canceled."

Now let us look at section 1023(a), which states, in part:

> The cancellation of any dollar amount of discretionary budget authority, item of new direct spending, or limited tax benefit shall take effect upon receipt in the House of Representatives and the Senate of the special message notifying the Congress of the cancellation.

Once the message comes in the door, the cancellation takes effect.

> If a disapproval bill for such special message is enacted into law, then all cancellations disapproved in that law shall be null

and void and any such dollar amount of discretionary budget authority, item of new direct spending, or limited tax benefit shall be effective as of the original date provided in the law to which the cancellation applied.

Section 1025(b) goes on to detail the time period in which Congress must pass its rescission disapproval bill. The conference agreement allows for:

a Congressional review period of thirty calendar days of session, during which Congress must complete action on the rescission disapproval bill and present such bill to the President for approval or disapproval;

an additional ten days (not including Sundays) during which the President may exercise his authority to sign or veto the rescission disapproval bill; and

if the President vetoes the rescission disapproval bill during the period provided, Congress is allowed an additional five calendar days of session to override the veto.

Allowing a presidential rescission to take effect unless specifically disapproved by the Congress has the force of taking from a majority of the people's representatives final say over how tax dollars are spent. That is most certainly the impact, Mr. President, because under this conference report, for all practical purposes, it would be necessary for Congress to marshal a two-thirds majority in both Houses in order to enact any appropriation to which the President might conceivably object. It is a stacked deck, and Congress will lose every time.

Consider this scenario: Once the House and Senate have passed an appropriations bill, the President can then, if we were to adopt this conference report, use his new-found rescission power to carve that appropriations bill up just the same as if he were carving a Thanksgiving turkey—a little here, a little there; the dark meat here, the white meat there.

After he or his bureaucrats decide, over the will of a majority of the representatives of the people, what they will carve out of duly enacted legislation, the President will then transmit a special message to Congress. Once he transmits his special message, Congress would have thirty days to pass a rescission disapproval bill. But since a disapproval bill is a direct denial of the President's request, and since the President is the one who proposed the rescission in the first place, I think we are safe in assuming that he would nearly always veto any such disapproval bill passed by both Houses. Therefore, it would be fairly pointless to even bring a disapproval bill to the Floor for a vote unless it had the support of two-thirds of the Senators and two-thirds of the House of Representatives. And it will almost never have that kind of support. This conference report loads the dice against Congress.

I used to play an old tune called, "I Am A Roving Gambler." It did not say anything about that roving gambler having loaded dice. But this conference report loads the dice and the President will always win—always. And you and I will always lose, and the people we represent will always lose.

Subsequent to the President's veto of the disapproval bill, Congress, of course, would have the opportunity to attempt an override. This time, however, the Congress would be limited to five days of consideration. In any event, it would take a vote of two-thirds of both Houses to override the President's veto of a disapproval bill.

In other words, under this conference report, Congress may actually have to pass an appropriation by a two-thirds supermajority in both Houses, before that appropriation could finally be nailed into law. Is that what Senators want? Are we truly intent on installing minority rule in this country? In our efforts to help get spending under control, are we running over the basic principle of majority rule in the process?

Additionally, by allowing the President—now, this is a radical departure from any idea I have ever heard suggested with reference to a line-item veto—by allowing the President to rescind new budget authority in bills or their accompanying tables, reports or statements of managers, or charts, the President's veto power is no longer limited to the various line-items in an appropriations bill. In other words, this conference agreement would enable a President to rescind any new budget authority contained in either an appropriations bill, or any table, report, or statement of managers accompanying any appropriation bills, by simply notifying Congress of such rescissions by a special message not later than five calendar days after enactment of an appropriations act.

So, he can go into this conference report—this does not go to the President for him to veto, the bill goes to the President for his signature or veto. This conference report does not go. He never sees it. Nor does the statement of the managers go, but he can reach into them through his bureaucrats who advise him, "Mr. President, there is a chart in this conference report on page 27, and you will find in that chart a certain item for certain States or certain regions of the country," and he can say, "Rescind them."

Congress' goal should be to give Presidents a stronger tool than they now have to reduce unnecessary spending. But, I do not believe, Mr. President, that we have to gut the power of the purse in order to give the President that new help. The approach outlined in this conference agreement would tend to arbitrarily substitute a President's judgment about the needs of the various individual states for the judgment of the duly elected representatives of those states and districts. I am sure that the people who vote to send us here do so at least in part because they feel we understand the needs of the states we represent and the views of the people of those states. I am equally sure that the people do not intend for our judgment and our votes to be summarily overruled. I do not think they intend that. I think if they really understood this conference report, if they really understood what we are about to do here, I do not think that the people would intend for our judgment and our votes to be summarily overruled or dismissed by a President—this President or any other President. Nor would I suspect that the people of our various states would want the deck so stacked against their elected representatives as to force us to muster votes of two-thirds of both Houses of Congress to overrule the President's judgment on a matter we thought important for the good of our states. But, this conference report is rigged, and it deals the cards that way and leaves the President and a minority in each body with the ultimate ace in the hole.

Mr. President, what we are talking about here is a measure that would increase exponentially the already overwhelming advantage that is held by the Executive in his use of the veto power. Out of the 1,460 regular vetoes that have been cast by Presidents directly over these past 208 years, only 105—or 7 percent—have been overridden in the entire course of American history. In 208 years, from the Presidency of George Washington, who vetoed two bills, and it was he who said the President has to veto the whole bill or sign it or let it become law without his signature. He cannot item veto it. That was George Washington. In 208 years from the Presidency of George Washington right down through President Clinton today, Congress has only been able to muster enough votes to override a President's veto 105 times, 7 percent of the total. In this case, this so-called enhanced rescission authority requirement for a disapproval resolution coupled with the President's veto power, creases a "heads I win, tails you lose" situation.

This overwhelming advantage on the side of a President is magnified by the fact that often the funds rescinded are likely to be of importance to only a few states or a single region. They may even be important to no more than a single congressional district. If that is the case, then how many Members of either House are going to be interested in overriding the President's veto? How many Senators are going to think it is worth standing up to the President and voting against reducing the deficit for the sake of one lonely House Member or a handful of Senators or a few Members of the House?

Take, for instance, the following six States: Maine, with 2 votes in the House; New Hampshire, with 2 votes; Massachusetts, 10 votes; Vermont, 1 vote; Rhode Island, 2 votes; and Connecticut, with its 6 votes. Collectively,

those states have 23 votes in the House of Representatives and 12 votes in the Senate. Those 35 individuals are going to find it extremely difficult, if not impossible, to interest two-thirds of the total House and Senate membership in overriding a presidential veto on an issue of concern only to the New England region. The type of "divide and conquer" strategy, which this conference report creates for the White House to use, would have a devastating effect on the power of the purse, and the system of checks and balances, which is the very taproot of the American constitutional system of government.

Not only will this conference report, when enacted into law, militate against small rural States like my own—which can muster only three votes in the other body—but it will be a prescription for minority rule. For over 200 years, the theory undergirding our republican system of government—some people speak of ours as a democracy. It is not a democracy. Ours is not a democracy. It would be impossible for a government that extends over 2,500 miles from ocean to ocean and has 250 million people to be a democracy. People should learn their high-school civics.

This is a republican form of government. And the theory undergirding our republican system of government has been that of majority rule. This conference report will substitute minority rule for majority rule by requiring a supermajority vote in both Houses to adopt a disapproval measure overriding a Presidential veto of appropriations passed initially by simple majorities in both Houses. A minority of 34 votes in the Senate will sustain a Presidential veto that may have already been given a two-thirds vote to override in the other body. In other words, the President and 34 Senators can overrule the wishes of the other 66 Senators and 435 Members of the House—if this is not minority rule in the field of legislation, what else may one call it? Do Senators wish to substitute minority rule for majority rule in the legislative process?

It is difficult to imagine why this body would want to deal such a painful blow, not only to itself, but to the basic structure of our constitutional form of government and to the interests of the people we represent.

Whether the President is a Democrat or a Republican is not my concern. Whether one party or another is in power in the Congress is not my concern here. My concern is with unnecessarily upsetting the balance of powers as laid out in the Constitution, and this conference report simply gives away much of the congressional control over the purse strings to a President.

What is fundamentally at stake here is the division of powers between the executive and legislative branches of Government, and the dangerous effects of instituting minority government. This is not a disagreement over reducing the deficit, or over giving the President some additional power to help do that. It is a disagreement over disrupting the people's power over the purse beyond what is necessary to accomplish our deficit reduction goal.

If we enact this conference report into law, control of the Nation's purse strings by a majority in the legislative branch would be severely impaired. That is a fact. It can be demonstrated by a careful reading of the report, and we ought not go down that road, because there is no turning back.

Mr. President, the most effective instrument of restraint possessed by the legislative branch against a powerful and reckless President is the control over the purse. For example, cutting off the flow of funds for an activity is the surest way of checking unwise presidential use of power. We have seen that in the effective use of curtailing funding in the example of our ill-advised adventure in Somalia.

I was the author of the amendment that drew the line which, in essence, said, "All right, Mr. President, after that date, if you want to stay, you come back, make your case before Congress, and seek the money for it."

Were the President to be granted enhanced rescission authority, though, we would have seriously unbalanced the delicate system that was put in place by the Constitution. We would have ceded congressional control over the purse to an executive who could then use it to affect our ability to check misadventures in foreign or domestic policy by threatening important initiatives in one or more States or a region.

The Framers of the Constitution were induced to give to the President the veto power, and they did this for two reasons: the first, was a desire to protect the executive against possible encroachments from the legislative branch, and the other was a desire to guard the country against the injurious effects of hasty and bad judgment.

Mr. President, it was a gross misapprehension on the part of the Framers who feared that the executive branch would be too feeble to successfully contend with the legislature in a struggle for power. Little did the Constitutional Framers dream that the powers of the Chief Executive would grow enormously with the passage of time. They could not foresee the powers that would flow to the President through his patronage as titular head of a political party. Nor, of course, could they foresee the power of the "bully pulpit" that would come with the invention of radio and television and modern telecommunications, which enable the President, at the snap of a finger, to summon before him for immediate disposal the advantages of the modern news media which enable him to appeal directly to the American people with one voice. The fears of the Framers, in this respect, were not only unfounded, but the constant encroachment, which they were concerned about, has not been by the legislative branch on the executive but has been just the opposite—there has been a constant erosion by the executive of the legislative authority.

The legislative branch of Government meets periodically; its power lies in its assembling and acting; the moment it adjourns, its power disappears. But the executive branch of the Government is eternally in action; it is ever awake on land and on sea; its action is continuous and unceasing, like the tides of some mighty river, which continues to flow on and on and on, swelling, and deepening, and widening, in its onward progress, until it sweeps away every impediment, and breaks down and removes every frail obstacle which might be set up to stay or slow its course.

The legislative branch sleeps but there stands the President at the head of the executive branch, ever ready to enforce the law, and to seize upon every advantage which presents itself for the extension and expansion of the executive power. And now, we are preparing here in the Senate to augment the already enormous power of an all-powerful chief executive by adopting a conference report that will shift the real power of the legislative branch to the other end of the avenue and place that power in his hands—to be used against the legislative branch, to be used against the elected representatives of the people in legislative matters. It is as if the legislative branch has been seized with a collective madness. The majority leadership in both Houses will have succeeded in enacting a major plank in the so-called Contract With America.

Mr. President, let me say once more, this is my contract with America: The Constitution of the United States. It cost me 15 cents several years ago. It can be gotten from the Government Printing Office, not for 15 cents today, but perhaps for a dollar. That is my contract with America.

The majority leadership in both Houses will have succeeded in enacting a major plank in its so-called Contract With America while it turns its back on the Constitution—the real Contract with America, which we have all sworn to support and defend—and the majority party in Congress will forever carry on its hands the stain of this unpardonable and gross betrayal of the Constitution and its Framers.

Let us contemplate the effect that the passage of this conference report would have on the power of the chief executive. At the present time, if all Senators are voting, 51 Senators are required to constitute a majority in the

passage of a bill, while in the other body 218 Members are required to constitute a majority in the passage of that same bill. If the bill is vetoed, then two-thirds of the Senate, or 67 votes, if all Senators are present and voting, will be required to make that bill become a law over a Presidential veto. In other words, that veto by one man in the Oval Office will be worth the vote of 16 additional Senators, while in the House that Presidential veto by one man will be equal to 72 votes—a supermajority of 218 being required to pass the bill, and a supermajority of 290 being required to override a Presidential veto, or a difference of 72 votes. In other words, a veto cast by a single individual who holds the Presidency, will be worth the votes of 88 Members of the House and Senate. Is this not enough, Mr. President, that he would wield so vast and formidable an amount of patronage, and thereby be able to exert an influence so potent and so extensive? Must there be superadded to all of this power, a legislative force equal to that of 16 Senators and 72 Members of the House of Representatives?

I have viewed the veto power simply in its numerical weight, and the aggregate votes of the two Houses, but there is another important point of view which ought to be considered. It is simply this: the veto, armed with the constitutional requirement of a two-thirds vote of both Houses in order to override, is nothing less than an absolute power. In all of the vetoes over the past 2 centuries, as I have said, only about 7 percent of the regular vetoes have been overridden. When it comes to overriding the vetoes of bills of disapproval of Presidential rescissions, the President's veto will constitute virtually an unqualified negative on the legislation of appropriations by Congress. If nothing can set it aside but a vote of two-thirds in both Houses, that veto of disapproval bills might as well be made absolute and now because that is what it will amount to. The constitutional Framers did not intend for such raw power over the control of the purse strings to be vested in the hands of any Chief Executive.

Do Senators know what they are doing when they vote to adopt this conference report? They are voting willingly to diminish their own independence as legislators. No longer will they feel absolutely independent to speak their minds concerning any President, any administration or administration policies in their speeches on this floor, and no longer will they exercise a complete and uninhibited independence from the Chief Executive when casting their votes on matters other than appropriation bills because they will know that the President, with this new and potent weapon in his arsenal, can punish them and their constituencies for exercising their own free independence in casting a vote against administration policies, against Presidential nominees, against approval of the ratification of treaties.

Now, Mr. President, I find in the New York Times of today that not only I am concerned about this loss of independence that we will suffer if we adopt this conference report. In today's New York Times, I find an article by Robert Pear titled "Judges' Group Condemns Line-Item Veto Bill."

I will just read one paragraph as an excerpt therefrom. Here is what Judge Gilbert S. Merritt, chairman of the Executive Committee of the Judicial Conference, has to say: "Judges were given life tenure to be a barrier against the wind of temporary public opinion," said Judge Merritt. "If we didn't have judicial independence, I'm not sure we could maintain free speech and other constitutional liberties that we take for granted." So the judges are concerned about judicial independence. I am concerned about the independence of lawmakers once this conference report becomes law.

Plutarch tells us that Eumenes came into the assembly, and delivered himself in the following fable. It was a fable about a lion. "A lion once, falling in love with a young damsel, demanded her in marriage of her father. The father made answer, that he looked on such an alliance as a great honor to his family, but he stood in fear of the lion's claws and teeth, lest, upon any trifling dispute that might happen between them after marriage, he might exercise them a little too hastily upon his daughter. To remove this objection, the amorous lion caused both his nails and his teeth to be drawn immediately; whereupon, the father took a cudgel, and soon got rid of his enemy. This," continued Eumenes, "is the very thing aimed at by Antigonus, who is liberal in promises, till he has made himself master of your forces, and then beware of his teeth and claws."

Mr. President, President Clinton wants this conference report. President Bush would have liked to have had it. President Reagan wanted it. All Presidents, with the exception of President Taft, have wanted the veto power. So perhaps this President is about to be given the power which he will not be able to exercise, however, under its phraseology, unless and until he is reelected for the second term.

Mark my words, Mr. President, once he gets it—or any other President—then beware of his teeth and claws. Senator BYRD, you will not be as independent in your exercise against freedom of speech, against the policies of an administration, once that President has in his power this weapon. Beware of his teeth and claws. Senator BYRD, you might not have voted against Clarence Thomas if the President had this effective weapon in his arsenal. I do not know about that.

In other words, Mr. President, this power of rescinding discretionary spending will not be used by a President to reduce the deficit. It is not a deficit-reducing tool because it does not get at entitlements, past entitlements. They are one of the real causes of the deficit. This conference report does not get to them. It is not a deficit-reduction tool. Discretionary spending has already been cut to the bone. Entitlement spending, which is a real cause of growth in the deficits cannot be touched under this conference report. No. This new power of rescissions will be used by a President to threaten and coerce and intimidate members of the legislative branch to give the President what he wants or he will cut the projects and programs that our constituents need and want. It will be a sword of Damocles suspended over every Member.

This conference report, when it is examined in its minutest detail, will constitute an inhibition on freedom of speech. It is going to constitute an inhibition on the independence of judges. That is what this judge feared. I say it will constitute an inhibition on freedom of speech in both Houses, an inhibition on a Member's casting of votes on administration policies, an inhibition on every Member's free and untrammeled independence in carrying out his duties and responsibilities toward the constituents who send him or her here. What Senator is willing to surrender his independence of thought and action and speech—we will see—to an already all-powerful executive, made more powerful by a major share in the control of the purse strings given to him by this conference report, a power that no Chief Executive has heretofore, in the course of over 200 years, shared.

The political leadership of the majority party in this Congress may reap temporary political gain from the enactment of this unwise measure, but the damage that will have been done to our constitutional system of checks and balances will constitute a stain upon the escutcheon of the Congress for a long time to come. As the Roman Senator Lucius Postumius Megellus said to the Tarentines: "Men of Tarentum, it will take not a little blood to wash this gown." It will take not a little blood to wash this gown.

The majority party may reap an immediate and temporary political gain from this action, but in "reaching to take of the fruit" of this amendment, its proponents—like those in Milton's "Paradise Lost"—will "chew dust and bitter ashes."

In a March 10, 1993, hearing before the House Government Operations Committee, Mr. Milton Socolar, Special Assistant to the Comptroller General of the United States, stated "proposals to change the rescission process should be viewed primarily in terms of

their effect on the balance of power between the Congress and the President with respect to discretionary program priorities." He went on to say that enhanced rescission authority "would constitute a major shift of power from the Congress to the President in an area that was reserved to the Congress by the Constitution and historically has been one of clear legislative prerogative."

Mr. President, once this shift of power to the President takes place, it will not be recovered by the legislative branch. Any bill to take it away from the President will be vetoed summarily and the prospects of overriding such a veto would be practically out of the question.

The moving finger writes; and, having writ,
moves on; nor all your piety nor wit
shall lure it back to cancel half a line,
nor all your tears wash out a word of it.

Senators should think long and hard before they agree to trade the long-term harm that will be done to the structure of our government for the short-term gain that might or might not come from passage of this bill. We should all stop and think about our Constitution, its system of checks and balances, and the wisdom of the Framers who placed the power of the purse here in this institution. We should all take the time to reread the Constitution, particularly those who may not have done so lately. We should reread it, and think about what that great document says before we agree to hand the type of enhanced rescission authority contained in this conference report over to the executive branch.

Mr. President, press reports tell us that this so-called item veto bill would give the Republicans their biggest legislative achievement of the 104th Congress. What a sad commentary to think that a bill of this quality, surrendering legislative power—the people's power through their elected representatives—and legislative responsibility to the President, and a bill so poorly drafted that we can only guess how it will be implemented, is considered an achievement. I cannot believe that the 104th Congress is so bereft of accomplishment that this bill represents its crowning glory.

Supporters of the item veto bill claim that it gives the President an essential tool in deleting "wasteful" federal projects and activities. Let us not deceive ourselves or the voters. There is not the slightest basis in our political history for believing that Presidents are peculiarly endowed by nature to oppose federal spending. Presidents like to spend money. They like proposing expensive new projects and programs, and they like to wield power, especially over the Members of the legislative branch. The national highway system, landing on the Moon, and Star Wars are some of the presidential initiatives.

The joint explanatory statement of the conference committee states that a January 1992 GAO report indicates that a line item veto "could have a significant impact upon federal spending, concluding that if Presidents had applied this authority to all matters objected to in Statements of Administration Policy on spending bills in the fiscal years 1984 through 1989, spending could have been reduced by a six-year total of about $70 billion." The fact is that the Comptroller General later apologized for this report, acknowledging that it had serious deficiencies and that the theoretical figure of $70 billion could not be defended. Actual savings, he said, could have been "close to zero." The Comptroller General even admitted that giving line item veto authority with the President could lead to higher spending, because the administration could use that authority to strike quid pro quos with legislators.

Mr. President, I ask unanimous consent to have this letter to which I have just referred, printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

COMPTROLLER GENERAL
OF THE UNITED STATES,
Washington, DC, July 23, 1992.

Hon. ROBERT C. BYRD,
Chairman, Committee on Appropriations, U.S. Senate.

DEAR MR. CHAIRMAN: This is in response to your recent letter concerning our report on the line item veto.

In reviewing the report and the way it has been interpreted, it is now apparent that we were not sufficiently clear about the purpose of the report or what we judged to be its implications.

Let me emphasize that the analysis was not an attempt to predict what would have happened if the President were granted line item veto or line item reduction authority, only to define the outer limits of potential item veto savings during a particular period as a way of testing the assertion that item veto authority would permit a President to achieve a balanced budget.

Having defined an outer boundary for the possible budgetary savings from a hypothetical line item veto, it necessarily follows that the actual savings from such veto power are likely to have been much less than this. As you suggest in your letter, there are several reasons to believe that this would have been the case:

The President might not have applied the veto to every item to which objections were raised in the Statements of Administration Position (SAPs).

Some vetoes might have been overridden by the Congress.

Some, perhaps all, of the savings resulting from successful item vetoes might have been spent for other purposes which were either acceptable to the President or commanded sufficiently broad support in the Congress to override a veto.

Thus, depending on how the President chose to use the hypothetical item veto power and how the Congress responded, it seems likely that the actual savings could have been substantially less than the maximum and maybe, as you have suggested, close to zero. Indeed, one can conceive of situations in which the net effect of item veto power would be to increase spending. This could be the result, for example, if a President chose to announce his intent to exercise an item veto against programs or projects favored by individual Senators and Representatives as a means of gaining their support for spending programs which would not otherwise have been enacted by the Congress.

We attempted in the report to make it clear that we were developing an estimate of the theoretical maximum potential savings, not a prediction of the likely actual results. We cited the limited empirical evidence as suggesting that the actual use of an item veto would likely produce savings substantially smaller than the theoretical maximum but apparently we were not as clear in this regard as we had thought. We regret the inappropriate highlighting of the $70 billion total amount and the way it was characterized, which undoubtedly contributed to a misleading impression of the purpose and import of our analysis.

Finally, I regret that this report, which was undertaken on our own initiative, was not discussed with you before the assignment was begun and that it was addressed to you without your having been apprised of that intention. I have taken steps to assure that it will not happen again.

Sincerely yours,

CHARLES A. BOWSHER,
Comptroller General of the United States.

Mr. BYRD. Let us speak plainly. This bill changes the existing process the President uses to rescind, or terminate, appropriated funds. That process takes place after the President signs a bill into law. It does not operate when he is signing a bill, as is the case with the real item veto used by governors. It is a misnomer to call this bill an item veto.

Why do we not talk straight to the American people? Do we think they are unable to understand what we do in Washington, DC? How can we justify using false language and false concepts? This bill has nothing to do with an item veto. It is a change in the rescission process.

This executive attitude of "We know best" persists from decade to decade. The President's Economic Report for 1985 includes a discussion about the pros and cons of the item veto. It admits that there is little basis to conclude from the State experience that an item veto would have a substantial effect on Federal expenditures. In fact, it says that "per capita spending is somewhat higher in States where the Governor has the authority for a line-item veto, even corrected for the major conditions that affect the distribution of spending among States."

There are other constitutional problems with this bill. First, this bill will have a serious impact on the independence of the Federal judiciary. With enhanced rescission authority the President can delete judicial items, perhaps for punitive reasons. He has no such authority now.

Second, this bill contains a number of legislative vetoes declared unconstitutional by the Supreme Court in the

1983 *Chadha* case. The Court said that whenever Congress wants to alter the rights, duties, and relations outside the legislative branch, it must act through the full legislative process, including bicameralism and presentment of a bill to the President. Congress could not, said the Court, rely on mechanisms short of a public law to control the President or the executive branch. The item veto bill, however, relies on details in the conference report to determine to what extent the President can propose rescissions of budget authority.

Third, this bill enables the President to make law or unmake law without Congress. If Congress fails to respond to the President's rescission proposals within the thirty-day period, his proposals become law. In fact, as soon as the rescission message is submitted to Congress, the President's proposal takes effect. If Congress has to comply with bicameralism and presentment in making law, how can the President make law and unmake law unilaterally?

Constitutional problems in the bill? Proponents say not to worry. Section 3 authorizes expedited review of constitutional challenges. Any member of Congress or any individual adversely affected by the item veto bill may bring an action, in the U.S. District Court for the District of Columbia, for declaratory judgment and injunctive relief on the ground that a provision violates the Constitution. Any order of the district court shall be reviewable by appeal directly to the Supreme Court. It shall be the duty of both the district court and the Supreme Court to advance on the docket and to expedite to the greatest possible extent the disposition of a case challenging the constitutionality of the item veto bill.

Evidently the authors of this legislation had substantial concern about the constitutionality of their handiwork. A provision for expedited review to resolve constitutional issues is not boilerplate in most bills. You may remember that when we included a provision for expedited review in the Gramm-Rudman-Hollings Act of 1985, the result was a Supreme Court opinion that held that the procedure giving the Comptroller General the power to determine sequestration of funds violated the Constitution.

Why are we trying to pass a bill that raises such serious and substantial constitutional questions? We should be resolving those questions on our own. All of us take an oath of office to support and defend the Constitution. During the process of considering a bill, it is our duty to identify—and correct—constitutional problems. We cannot correct these here because we cannot amend the conference report. It is irresponsible to simply punt to the courts, hoping that the judiciary will somehow catch our mistakes.

As to the first constitutional issue: the impact that this bill might have on the independence of the judiciary. That is what the judges are concerned about, as reported by the New York Times today. Under this legislation, the President can propose rescissions for any type of budget item, regardless of whether it is for the executive, legislative, or judicial branch.

There is no exemption for the judiciary and certainly none for Congress. The President has full latitude to look through any bill and propose that certain funds and tax benefits be cancelled.

The item veto bill would allow the President to rescind funds for all of the judiciary except for the salaries of Article III Justices and judges. Anything else funds for courthouses, staff, expenses, etc. is subject to rescissions. Are these selections to be made solely for economy and "savings," or could they be retaliations for court decisions the executive branch finds disappointing? Probably we would never know, but the appearance of executive punishment for unwelcome decisions would be ever with us.

Given the fact that the executive branch is the most active litigant in federal courts, allowing the President this kind of leverage over the judiciary is improper and unwise. Furthermore, it represents a distinct danger to the independence of the judiciary. The availability of the rescission power, especially under the procedures of this bill, raises a clear issue of separation of powers and has constitutional dimensions.

If the President includes judicial items in a rescission proposal, judges would have to enter the political fray and lobby against the President. This is unseemly, whether the judges lobby openly or behind the scenes. They should not be put in that position, as this bill does.

Judges understand that they have to justify their budgets to Congress like any other agency, legislative or executive. But we have designed the process to protect their independence from the executive branch.

For example, the Budget and Accounting Act of 1921 specifically provided that budgetary estimates for the Supreme Court "shall be transmitted to the President on or before October 15th of each year, and shall be included by him in the Budget without revision." Congress wrote the 1921 statute this way not only for purposes of comity but to respect the coequal status of the judiciary. As the law now stands, in the U.S. Code, budget estimates for the entire judicial branch must be included in the President's budget without change.

Nevertheless, this item veto bill allows the President to reach into appropriations, to reach into conference reports, to reach into the statement of the managers, to reach into the tables and charts, and pick out judicial items for rescission. Last year, in testimony before the joint hearings conducted by the House Committee on Government Reform and Oversight and the Senate Committee on Governmental Affairs, Judge Gilbert S. Merritt testified that it "seems inconsistent to prohibit the Executive Branch from changing the Judiciary's budget prior to submission, but then to give the President unilateral authority to revise an enacted budget." His point is well taken. Certainly it is inconsistent. It cannot be justified.

More recently, the Judicial Conference of the United States has expressed its concern about the application of the item veto bill to judicial funds. It believes that there may be constitutional implications in giving the President this authority and notes that the doctrine of separation of powers recognizes the importance of protecting the judiciary against presidential interference. As the Judicial Conference points out, control of the judiciary's budget rightly belongs to Congress, not the executive branch. In light of the fact that the United States almost operating through the executive branch has more lawsuits in federal court than any other litigant, this rescission authority endangers the integrity and fairness of our federal courts. Judicial decisions should not be affected in any way, however remote, by potential budget actions by the executive branch.

Not only did Congress recognize this fundamental principal in the Budget and Accounting Act, it expressed the same value in legislation enacted in 1939. Although the 1921 statute prohibited the President from altering judicial budget estimates, the judiciary lacked a separate administrative office to prepare and implement its own budget. Oddly, it had to rely on the Department of Justice for this work. It was the Attorney General who prepared and presented to the Bureau of the Budget the estimates for judicial expenses. Several Attorneys General considered it "anomalous and potentially threatening to the independence of the courts" for the chief litigant the Department of Justice to have any control over the preparation of judicial budgets.

This anomaly was corrected by legislation in 1939 that created the Administration Office of the United States Courts, with the director appointed by the Supreme Court. The director prepared budget estimates submitted to the Bureau of the Budget and later to the Office of Management and Budget. The legislative history of the 1939 statute highlighted the need to protect the independence and integrity of the courts. In 1937 the Attorney General said that,

* * * there is something inherently illogical in the present system of having the budget and expenditures of the courts and the individual judges under the jurisdiction of the Department of Justice. The courts should be an independent, coordinate branch of the Government in every proper sense of the term. Accordingly I recommend legislation that would provide for the creation and maintenance of such an administrative system under the control and direction of the Supreme Court.

On January 8, 1938, an article in the Washington Post pointed out that the Federal Government was the chief litigant in the federal courts. While there was no intention on the part of the newspaper "even to intimate that the Attorney General or his aides would use their power over the purse strings of the judiciary to bring a recalcitrant judge into line," the mere fact that the Attorney General "could do so if he wished constitutes a factor in the relationship between the Justice Department and the courts which should be eliminated."

During floor debate on the bill creating the Administrative Office of the U.S. Courts, Senator Henry Ashurst, chairman of the Judiciary Committee, came to the same conclusion. "No one believes," he said, "that either the present Attorney General or the preceding one would use his position to attempt to intimidate any judge; but we know enough about human nature to know that no man, not even a judge, is coldly impersonal and objective with one who holds the purse strings." In his testimony last year, Judge Merritt said that during the years between 1921 and 1939 the Budget Bureau had "refused to pass on requests for new judgeships" and the Department of Justice "cut judges' travel funds, eliminated bailiffs, criers and messengers, and reduced the salaries of secretaries to retired judges by one-half."

The judiciary should not be subject to the rescission requests made under this item veto bill. If such a bill were to pass, it is crucial to give a full exemption to the judiciary. Exempting the judiciary does not mean that the courts would escape the current pressure for budgetary cutbacks. Judges would still have to present their budget estimates to Congress and defend them. As Judge Merritt noted in his testimony last year, the judiciary's budget requests "are subjected to full review by the congressional appropriations committees in keeping with the fiscal power conferred on Congress by the Constitution. The Judiciary must justify each dollar it receives. This is appropriate and the Judiciary cheerfully respects this role of Congress." Scrutiny of judicial budgets should be in the hands of Congress, not the President.

I turn now to the issue of the legislative veto. This bill gives the President the authority to cancel any dollar amount of discretionary budget authority, any item of new direct spending, and any limited tax benefit. This authority applies to any "appropriation law," defined in the bill to mean any general or special appropriation act, or any act making supplemental, deficiency, or continuing appropriations "that has been signed into law pursuant to Article I, section 7, of the Constitution of the United States."

Notice that the enhanced rescission authority applies only to appropriations bills "signed into law" by the President. This is a very peculiar feature. If the President vetoes a bill and the veto is overridden, the enhanced rescission authority is not available. Similarly, if the President decides not to sign an appropriations bill and it becomes law after ten days, Sundays excepted, the President may not use the enhanced rescission authority either. You will recall that President Clinton last December allowed the defense appropriations bill to become law without his signature.

Why does the enhanced rescission authority apply only to signed bills? If the goal is to maximize the opportunity for the President to rescind "wasteful" funds, why restrict the President this way? What is the purpose? Perhaps we are saying that if the President vetoes a bill and Congress overrides the veto, this second action by Congress should settle the matter. Congress has reaffirmed and reinforced the priorities established in the bill. Those priorities are not to be second-guessed in a rescission action.

Clearly this provision puts some pressure on a President not to exercise his constitutional right of veto which is set forth in section 7 of article I of the Constitution of the United States. If he vetoes and is overridden, the enhanced rescission procedure is not available. I doubt it we have thought through the merits and demerits of discouraging a veto.

The new procedure—this so-called line-item veto, enabling the President to simply cancel items of spending with which he does not agree, will make him, in fact, a super legislator. It will discourage him from using his existing constitutional veto powers to veto an entire bill, and encourage him to try to "fix" legislation with which he does not fully agree by canceling only portions of the bill. He will be the lawmaker *sui generis* because his cancellations will in practical effect, be absolute. There will be no recourse—no way to override his cancellations under the convoluted, stack-deck procedures set forth in this conference report.

The temptation to simply do a "cut and paste" job on spending bills, thereby foregoing the route of a full Presidential veto of an entire bill which might then be overridden will, it seems to me, be nearly overwhelming. As a result, we will have a President who not only "proposes," but also "deposes," in other words a super lawmaker in the White House circumventing in yet another way the principle of majority rule.

Additionally, such an approach will have the effect of discouraging a President from vetoing a whole bill, and thus through consensus and compromise and negotiations between the two branches, develop a new and better total product which he could then sign.

If the goal of this bill is to allow the President to rescind appropriations for projects and programs he objects to, we all know that appropriations bills contain large lump-sum amounts. We don't put details, or items, in appropriations bills. How does the President reach that level of detail?

The answer is that this bill allows the President to rescind dollar amounts that appear not merely in a bill but also in the conference report and the statement of managers included in the conference report. Here is where the issue of the legislative veto emerges. As defined in this bill, the term dollar amount of discretionary budget authority includes the entire dollar amount of budget authority "represented separately in any table, chart, or explanatory text included in the statement of managers or the governing committee report accompanying such law." The dollar amount of discretionary budget authority also includes the entire dollar amount of budget authority "represented by the product of the estimated procurement cost and the total quantity of items specified in an appropriation law or included in the statement of managers or the governing committee report accompanying such law."

In *INS* v. *Chadha* (1983), the Supreme Court ruled that whenever congressional action has the "purpose and effect of altering the legal rights, duties and relations of persons" outside the legislative branch, it must act through both Houses in a bill or joint resolution that is presented to the President. In other words, we cannot act by one House or even by both Houses in a concurrent resolution, because a concurrent resolution is not presented to the President. Nor can we act by committee or subcommittee. Anything that has the purpose and effect of altering the legal rights, duties, and relations outside Congress must comply fully bicameralism and presentment.

What of these details and items that appear in a conference report or in the statement of managers? This is a nonstatutory source. It complies with bicameralism but not with presentation. How can it bind the President?

I recognize that proponents of this bill can argue that the conference report and the statement of managers will continue to be nonbinding on the President in the management of these particular laws. To a certain extent that is true. The joint explanatory

statement for this bill states: "The inclusion of subparagraph (A)(ii) is not intended to give increased legal weight of authority to documents that accompany the law that is enacted." For example, if Congress in a conference report takes a lump sum of $800 million and breaks it into one hundred discrete projects, the breakdown is nonstatutory and nonbinding with regard to implementing the law. The executive branch may depart from the breakdown over the course of a fiscal year. What is legally binding is the ceiling of $800 million. If the executive branch decides that it would like to shift money from one project to another, it can do that by following established reprogramming procedures. The breakdown, in that sense, is advisory.

But when it comes to submitting the rescission proposals, the breakdown in the conference report and the statement of managers is absolutely binding. If Congress decides to omit the breakdown in the conference report and the statement of managers, the President is limited to the lump sums and aggregates found in the bill signed into law.

It could be argued that any breakdown in the conference report and the statement of managers is a benefit to the President. Itemization creates an opportunity for the President he would not otherwise have. Why should he complain?

The constitutional point I raise is not answered by saying that the procedure might benefit the President. When Congress chose to authorize the Attorney General to suspend the deportation of aliens, subject to a one-House veto, that was a benefit. Without that authority the Attorney General would have to seek a private bill for each threatened alien. But the fact that this procedure constituted a benefit or advantage to the Attorney General, and that the Attorney General was better off with this mechanism than the previous one, did not save the one-House veto. In the *Chadha* case, the Court asked the specific question: did the one-House legislative veto comply with bicameralism and presentment? Clearly it failed both tests.

Similarly, Presidents sought authority to reorganize the executive branch and accepted the one-House veto that went with this delegation. Reorganization authority offered many benefits to the executive branch. Congress could not amend a presidential reorganization plan and it could not bury it in committee. The presidential plan would become law unless either House disapproved within a specific time period. Distinct and clear advantages to the President, but that did not save the one-House veto. *Chadha* said that this mechanism is unconstitutional for procedural reasons.

That returns us to my central question: Does the use of conference reports and statements of managers constitute an attempt by Congress to control the President short of passing a public law? Is this procedure a forbidden legislative veto? Whether it is a benefit, advantage, or opportunity for the President is irrelevant in answering this constitutional question.

Let me put this another way. Suppose we itemize the $800 million lump sum into a hundred specific projects in the conference report and statement of managers. Suppose further that Congress becomes unhappy with the President's subsequent rescission proposal and decides to retaliate the next year by eliminating all details in the conference report and statement of managers. Now the President is limited to the lump sum of $800 million in the bill. He can live with it or decide to propose the rescission of that full amount. Can any one doubt that Congress, in something that is short of a public law, is controlling the President this time in a negative or restrictive way?

Measure that fact against the explicit language of the Court in the *Chadha* case. In examining the one-House veto over the suspension of deportations, the Court concluded that the congressional action was "essentially legislative in purpose and effect." 462 U.S. at 952. Can anyone doubt that the congressional action in making language in a conference report and statement of managers the explicit guide for presidential rescissions is "essentially legislative in purpose and effect"?

Moreover, the Court in *Chadha* decided that the disapproval by the House of suspended deportations "had the purpose and effect of altering the legal rights, duties, and relations of persons" outside the legislative branch. Again, there can be no uncertainty about the purpose and effect of the conference report and the statement of managers. They have the purpose and effect of altering the legal rights, duties, and relations of the President in submitting rescissions.

Proponents of this bill may claim that it will be beneficial and constructive. We may differ on that score, but there can be no doubt about how the Court will react to such arguments. In *Chadha*, the Court said that "the fact that a given law or procedure is efficient, convenient, and useful in facilitating the functions of government, standing alone, will not save it if it is contrary to the Constitution." 462 U.S. at 944.

The question remains: Does this bill square with the *Chadha* ruling? If it does not, we are being asked to consciously adopt a bill that we know is unconstitutional, whatever merit its proponents may claim for it. All of us are capable of analyzing this issue. If the procedure established in this bill amounts to a legislative veto prohibited by the *Chadha* case, we are violating our oath of office in passing this bill. If enhanced rescission is of value, then we must vote down this bill and insist that its supporters construct an alternative bill that meets the constitutional test. To simply kick this issue to the courts is irresponsible.

It is curious that *Chadha* told Congress that if you want to make law you must follow the entire process, bicameralism and presentment, and yet this bill allows the President to make law and unmake law without any legislative involvement. Under the terms of this conference report, whenever Congress receives the President's special message on rescissions, the "cancellation of any dollar amount of discretionary budget authority, item of new direct spending, or limited tax benefit shall take effect." The cancellation is "effective" upon receipt by Congress of the special message notifying Congress of the cancellation. Why is the cancellation "effective" before Congress has an opportunity to respond to the President's message? The executive branch may have legitimate reasons to make sure that agencies do not obligate funds that are being proposed for cancellation, but the language in this bill is offensive to the role of Congress in canceling prior law.

Of course the bill gives Congress thirty days to disapprove the President, subject to the President's veto and the need then for a two-thirds majority in each for the override. If Congress does nothing during the thirty day review period, the President's proposals become binding and the laws previously passed and enacted are undone. Through this process the President can make and unmake law without any necessary legislative action. How does that square with the intent and spirit of *Chadha*? Are we to argue that the President can make, or unmake, law singlehandedly and unilaterally, but Congress is compelled to follow the full lawmaking scheme laid out in the Constitution?

I earlier stated that placing details in a conference report and statement of managers violates *Chadha* because this phase of the legislative process is something short of a public law. It should be pointed out that in some legislative vehicles, like continuing resolutions, Congress incorporates by reference phases of the legislative process that are also short of a public law, such as a bill reported by committee or a bill that has passed one chamber. Yet those phases of the legislative process are in a vehicle—continuing resolution—that must pass both Houses and be presented to the President for his signature or veto. These precedents offer no support for the procedure adopted in this bill. The reference to committee report language in the item veto conference report does not comply with *Chadha*.

This is an enormous shift of power to the President but we cannot be sure that the courts will reverse such an abdication. If Congress is unwilling to protect its prerogatives, the courts won't always intervene to do Congress' work for it. As Justice Robert Jackson said in the Steel Seizure Case of 1952: "I have no illusion that any decision by this Court can keep power in the hands of Congress if it is not wise and timely in meeting its problems. * * * We may say that power to legislate for emergencies belongs in the hands of Congress, but only Congress itself can prevent power from slipping through its fingers."

On March 2, 1805, Vice President Aaron Burr bid adieu to the Senate, stepping down to make way for the new Vice President, George Clinton, who had been elected to serve during Jefferson's second term. Burr's farewell speech, according to those who heard it, was received with such emotion that Senators were brought to tears and stop their business for a full half hour. It was truly one of the great speeches in the Senate's history: "This House," said Burr that day, "is a sanctuary; a citadel of law, of order, and of liberty; and it is here—it is here in this exalted refuge; here, if anywhere, will resistance be made to the storms of political phrensy and the silent arts of corruption; and if the Constitution be destined ever to perish by the sacrilegious hands of the demagogue or the usurper, which God avert, its expiring agonies will be witnessed on this Floor."

I regret to say, Mr. President, that, in my opinion, before this day is done, the ingenious prescience of Aaron Burr will have made itself manifest in the fateful events that will inevitably unfold and which will be witnessed on this Floor.

Philosophers, in their dreams, had constructed ideal governments. Plato had luxuriated in the bliss of his fanciful Republic. Sir Thomas More had taken great satisfaction in the refulgent visions of his Utopia. The immortal Milton had expressed his exalted vision of freedom. Locke has published his elevated thoughts on the two principles of government. But never, until the establishment of American independence and the drafting and ratification of that charter which embodied in it the checks and balances and separation of powers of our own constitutional system, was it ever acknowledged by a people, and made the cornerstone of its government, that the sovereign power is vested in the masses.

It was just such a noble attachment to a free constitution which raised ancient Rome from the smallest beginnings to the bright summit of happiness and glory to which the Republic arrived, and it was the loss of that noble attachment to a free constitution that plunged her from that summit into the black gulf of indolence, infamy, the loss of liberty, and made her the slave of blood thirsty dictators and tyrannical emperors.

It was then that the Roman Senate lost its independence, and her Senators, forgetful of their honor and dignity, and seduced by base corruption, betrayed their country. Her Praetorian soldiers urged only by the hopes of plunder and luxury, unfeelingly committed the most flagrant enormities, and with relentless fury perpetrated the most cruel murders, whereby the streets of imperial Rome were drenched with her noblest blood. Thus, the empress of the world lost her dominions abroad, and her inhabitants dissolute in their manners, at length became contented slaves, and the pages of her history reveal to this day a monument of the eternal truth that public happiness depends on an unshaken attachment to a free constitution.

And it is this attachment to the Constitution that has preserved the cause of liberty and freedom throughout our land and which today undergirds the noble experiment that never has ceased to inspire mankind throughout all the earth.

The gathered wisdom of a thousand years cries out against this conference report. The history of England for centuries is against this conference report. The declarations of the men who framed our Constitution stand in its way.

Let us resolve that our children will have cause to bless the memory of their fathers, as we have cause to bless the memory of ours.

Let us not have the arrogance to throw away centuries of English history and over 200 years of the American experience for political expediency. No party, Republican or Democrat, is worth the price that this conference report will exact from us and our children. Considering the fact that only about 7 percent of the regular vetoes have been overridden over a period of more than 200 years, it stands to reason that even a much smaller percentage of vetoes of disapproval bills will be overridden—keeping in mind that the presidential vetoes over the period of two centuries have been vetoes of measures which, in the main, have had national significance; the relatively few disapproval bills which will be vetoed under the conference report before the Senate will not likely be measures of national importance but will be of importance to only one or a few states, or perhaps a region at most, and it is very unlikely that the vetoes of disapproval bills will arouse sufficient sentiment in both Houses to produce a two-thirds vote to override. Hence, the President's single act of rescinding an appropriation item will be tantamount to its being stricken from the law.

This is an enormous power for the Legislative Branch to transfer into the hands of any President. The power to rescind will be tantamount to the power to amend, and this conference report will transfer to any President the power to single-handedly amend a measure after it has become law whereas a majority of both Houses is required to amend a bill by striking an item from the bill. The President will be handed the power to strike an item from a law which, if done by action of the Legislative Branch, would require the votes of 51 Senators and 218 members of the House, if all members were in attendance and voting. What an enormous legislative power to place in the hands of any President!

Mr. President, let us learn from the pages of Rome's history. The basic lesson that we should remember for our purposes here is, that when the Roman Senate gave away its control of the purse strings, it gave away its power to check the executive. From that point on, the Senate declined and, as we have seen, it was only a matter of time. Once the mainstay was weakened, the structure crumbled and the Roman republic collapsed.

This lesson is as true today as it was two thousand years ago. Does anyone really imagine that the splendors of our capital city stand or fall with mansions, monuments, buildings, and piles of masonry? These are but bricks and mortar, lifeless things, and their collapse or restoration means little or nothing when measured on the great clock-tower of time.

But the survival of the American constitutional system, the foundation upon which the superstructure of the republic rests, finds its firmest support in the continued preservation of the delicate mechanism of checks and balances, separation of powers, and control of the purse, solemnly instituted by the Founding Fathers. For over two hundred years, from the beginning of the republic to this very hour, it has survived in unbroken continuity. We received it from our fathers. Let us as surely hand it on to our sons and daughters.

Mr. President, I close my reflections with the words of Daniel Webster from his speech in 1832 on the centennial anniversary of George Washington's birthday:

> Other misfortunes may be borne or their effects overcome. If disastrous war should sweep our commerce from the ocean, another generation may renew it. If it exhaust our Treasury, future industry may replenish it. If it desolate and lay waste our fields, still, under a new cultivation, they will grow green again and ripen to future harvests. It were but a trifle even if the walls of yonder Capitol were to crumble, if its lofty pillars should fall, and its gorgeous decorations be all covered by the dust of the valley. All these might be rebuilt. But who shall reconstruct the fabric of demolished government? Who shall rear again the well-proportioned columns of constitutional liberty? Who shall frame together the skillful architecture which unites national sovereignty with

State rights, individual security, and public prosperity? No. If these columns fall, they will be raised not again. Like the Colosseum and the Parthenon, they will be destined to a mournful, a melancholy immortality. Bitterer tears, however, will flow over them than were ever shed over the monuments of Roman or Grecian art. For they will be the remnants of a more glorious edifice than Greece or Rome ever saw: the edifice of constitutional American liberty.

Mr. President, I ask unanimous consent to have printed in the RECORD the newspaper article to which I alluded earlier today under the headline of "Judges' Group Condemns Line-Item Veto Bill"—that is an article from the New York Times—together with a letter addressed to me by Leonidas Ralph Mecham, Secretary of the Judicial Conference of the United States, in which he expresses concern with respect to the conference report before the Senate; an item from the Legal Times, the week of March 25, 1996, entitled "Points of View: Loosening the Glue of Democracy, the Line-Item Veto Would Discourage Congressional Compromise." The article is by Abner J. Mikva, a retired judge who served on the U.S. Court of Appeals for the D.C. Circuit, a former White House counsel for President Clinton, and a former Member of the U.S. House of Representatives. He served as chief judge in the D.C. circuit from 1991 to 1994.

Mr. President, with the permission of the distinguished Senator from New York [Mr. MOYNIHAN], I ask unanimous consent that a letter from Michael Gerhardt, a professor of law at the College of William and Mary, also be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the New York Times, Mar. 27, 1996]

JUDGES' GROUP CONDEMNS LINE-ITEM VETO BILL

(By Robert Pear)

WASHINGTON, March 26.—The organization that represents Federal judges across the country today denounced a plan developed by Republican leaders of Congress that would allow the President to kill specific items in spending bills.

The organization, the Judicial Conference of the United States, said such authority posed a threat to the independence of the judiciary because a President could put pressure on the courts or retaliate against judges by vetoing items in judicial appropriations bills.

The proposal would shift power to the President from Congress, permitting him to block particular items in a spending bill without having to veto the entire measure. Early last year the House and Senate approved different versions of the proposal, known as a line-item veto. Recently they struck a compromise, which is expected to win approval in both chambers this week. President Clinton supports it.

But any line-item veto bill signed by the President is sure to be challenged in court, and today's criticism from the Judicial Conference suggests that it may get a chilly reception.

Judge Gilbert S. Merritt, chairman of the executive committee of the Judicial Conference, said it was unwise to give the President authority over the judicial budget because the executive branch was the biggest litigant in Federal court, with tens of thousands of cases a year.

The potential for conflict of interest is obvious, said Judge Merritt, who is also chief judge of the United States Court of Appeals for the Sixth Circuit. The court's headquarters are in Cincinnati: Judge Merritt's chambers are in Nashville.

In approving the line-item veto, Congress said it was necessary to curb "runaway Federal spending." But in an interview, Judge Merritt said the inclusion of the judiciary among agencies subject to the line-item veto was "a rather serious defect" in the bill.

The line-item veto was a major element of the Republicans' Contract With America and is a top priority of Senator Bob Dole, the majority leader, who has all but clinched the Republican nomination for President. The House passed its version of the line-item veto in February 1995, by a vote of 294 to 134. The Senate approved its version, 69 to 29, in March 1995, with 19 Democrats supporting it.

Under the compromise struck this month, the President could cancel spending for projects listed in tables and charts that accompany a bill, as well as in the bill itself. He could also cancel any new tax break that benefits 100 people or fewer.

Alan B. Morrison, a lawyer at the Public Citizen Litigation Group who has successfully challenged several unconventional lawmaking procedures, said: "In my view, this bill is unconstitutional. It certainly will be challenged in court."

Mr. Morrison said the line-item veto trampled on the procedure set forth in the Constitution for making law. Under that procedure, he said, the President may veto whole bills but not pieces of a bill.

In recent weeks, the decisions of several Federal judges have been harshly criticized by the White House and Republican candidates for President. Judges said such criticism highlighted the need for judicial independence.

"Judges were given life tenure to be a barrier against the winds of temporary public opinion," said Judge Merritt. "If we didn't have judicial independence, I'm not sure we could maintain free speech and other constitutional liberties that we take for granted."

In a letter to Congress, L. Ralph Mecham, secretary of the Judicial Conference, said: "The doctrine of separation of powers recognizes the vital importance of protecting the judiciary against interference from any President. This protection needs to endure. Control of the judiciary's budget rightly belongs to the Congress and not the executive branch."

Judge Richard S. Arnold, chairmen of the budget committee of the Judicial Conference, said in an interview: "We don't have any qualms about this particular President, but institutionally we have reservations about providing any President with a weapon that could, in the wrong hands, be used to retaliate against the courts for deciding cases against the Federal Government."

Judge Arnold, a longtime friend of Mr. Clinton, is chief judge of the United States Court of Appeals for the Eighth Circuit, which has its headquarters in St. Louis. Judge Arnold sits in Little Rock, Ark.

The Federal judiciary has a budget of $3 billion a year, accounting for two-tenths of 1 percent of the $1.5 trillion spent last year by the Federal Government. Congress may not reduce the salary of a sitting Federal judge, but may cut the budget for court clerks, secretaries, probation officers and security officers, as well as for judicial travel.

In the interview today, Judge Merritt described the judges' concern about the line-item veto this way: "If for some reason the President, whoever he may be, is irritated about something the judiciary has done, he could excise the appropriation for a particular court or a particular judicial function."

JUDICIAL CONFERENCE
OF THE UNITED STATES,
Washington, DC, March 21, 1996.

Hon. ROBERT C. BYRD,
Ranking Minority Member, Committee on Appropriations, U.S. Senate, Senate Hart Office Building, Washington, DC.

DEAR SENATOR BYRD: I understand an agreement has been reached between Republican negotiators on "line-item veto" legislation. Although we have not seen a draft of the agreement to determine the extent to which the Judiciary might be affected, I did not want to delay communicating with you. The Judiciary had concerns over some previous versions of the legislation that were considered by the House and Senate. These concerns could also apply to the version on which agreement was just reached, depending on how it is drafted.

The Judiciary believes there may be constitutional implications if the President is given independent authority to make line-item vetoes of its appropriations acts. The doctrine of separation of powers recognizes the vital important of protecting the Judiciary against interference from any President.

Protection of the Judiciary by Congress against Presidential power and potential intervention is also evident in the Budget and Accounting Act of 1921, which ensures that the financial affairs of the Judiciary be insulated from political influence by the President and his staff. Prior to this Act, the Judiciary's budget was controlled by the Executive Branch. Now, by law, requests for judicial branch appropriations must be submitted to the President by the Judiciary, but must by transmitted by him to Congress "without change".

This protection needs to endure. Control of the Judiciary's budget rightly belongs to the Congress and not the Executive Branch, particularly in light of the fact that the United States, almost always through the Executive Branch, has more lawsuits in the Federal courts than any other litigant. The integrity and fairness of our Federal Courts should not be endangered by the potential of Executive Branch political influence.

In whatever agreement is ultimately reached by the conference committee, on behalf of the Judicial Conference of the United States, I urge that the independence of the Third Branch of Government be preserved.

I appreciate your consideration and we stand ready to assist you in any way necessary.

Sincerely,

LEONIDAS RALPH MECHAM,
Secretary.

[From the Legal Times, Mar. 25, 1996]

LOOSENING THE GLUE OF DEMOCRACY

(By Abner J. Mikva)

There is a certain hardiness to the idea of a line-item veto that causes it to keep coming back. Presidents, of course, have always wanted it because the line-item veto represents a substantial transfer of power from the legislative branch to the executive branch. Government purists favor the idea because the current appropriations process—

whereby all kinds of disparate expenditures are wrapped or "bundled" into one bill so that the president must either swallow the whole thing or veto the whole thing—is very messy and wasteful. Reformers generally urge such a change because anything that curtails the power of Congress to spend has to be good.

My bias against the unbundling of appropriations and other legislative proposals has changed over the years. When I first saw the appropriations process, back in the Illinois legislature, it seemed the height of irresponsibility to bundle dozens of purposes into a single bill. It also seemed unconstitutional since the Illinois Constitution had a "single purpose" clause, under which bills considered by the legislature were to contain only one subject matter. But the "single purpose" clause had been observed in the breach for many years by the time I was elected in 1956.

I first saw the bundling process work when a single bill, presented for final passage, appropriated money for both the Fair Employment Practices Commission and a host of other commissions, including one to provide services for Spanish-American War veterans (there were two left in the state at the time) and one to study the size of mosquitoes that inhabited the downstate portions of Illinois. If I wanted to vote for the FEPC, I had to swallow all those other commissions, which I thought were wasteful. So I invoked the constitutional clause. to my dismay, the legislature favored all the other commissions on separate votes, but the FEPC went down to defeat. That is how I learned that there are some pluses to the bundling process.

Bundling is very asymmetrical in effect and probably wasteful. But it is also a legislative device that allows various coalitions to form and thus moves the legislative process forward.

Consider South America, where regional rivalries and resentments in many countries make governing very difficult. The inability to form the political coalitions that are normal in this country creates enormous pressure on the central government. This pressure is certainly one of the causes of the mini-revolts that perpetually arise. The have-nots feel excluded from the process, while the majority for the military regime) exercise their power without taking care of the depressed areas of the country.

It is more difficult to ignore the have-notes in the United States. First of all, members of Congress are elected as representatives of geographic areas, rather than as representatives of parties. Woe betide the congressman who starts thinking too much like a national legislator and forgets the parochial interests of his constituents.

Second, the separate elections of the president and Congress creates the necessity for the two branches to cooperate in setting spending priorities. Floating coalitions that take into account the needs of all the sections and groups in the country become essential. When urban interests wanted to promote a food program for the cities, for example, They formed a coalition with agricultural interests, and food stamps were joined with farm subsidies.

It is true that bundling encourages the merger of bad ideas with good ideas, and diminishes the ability of the president to undo the package. A line-item veto, which would allow the president to veto any single piece of an appropriations bill (or, under some proposals, reject disparate pieces of any other bill), makes the whole process more rational.

But it also makes it harder to find the glue that holds the disparate parts of our country together. City people usually don't care about dams and farm policy. Their rural cousin don't think much about mass transportation or urban renewal or housing policy. If the two groups of representatives don't have anything to bargain about, it is unlikely that either set of concerns will receive appropriate attention.

The other downside to the line-item veto is exactly the reason why almost all presidents want the change and why, up to now, most Congresses have resisted the idea. The line-item veto transfers an enormous amount of power from Congress to the president. For those of us who think that the executive branch is strong enough, and that an imperial presidency is more of a threat than an overpowering Congress, the current balance of power is just right.

That has been the gist of Sen. Robert Byrd's opposition to the line-item veto. The West Virginia Democrat has argued that the appropriations power, the power of the purse, is the only real power that Congress has and that the line-item veto would diminish that power substantially. So far, he has prevailed—although last year, the reason he prevailed had more to do with the Republicans' unwillingness to give such a powerful tool to President Bill Clinton.

But now the political dynamics have changed. The Republicans in Congress can fashion a line-item veto that will not benefit the incumbent president—unless he gets relected—and their probable presidential candidate, Senate Majority Leader Robert Dole, has recently made clear that he wants this passed. Chances for the line-item veto are vastly greater.

There are some constitutional problems in creating such a procedure. The wording of the Constitution suggests pretty strongly that a bill is presented to the president for his signature or veto in its entirety. It will take some creative legislating to overcome such a "Technicality." I reluctantly advised the president last year that it was possible to draft a line-item veto law that would pass constitutional muster. The draft proposal involved a Rube Goldberg plan that "pretended" that the omnibus appropriations legislation passed by Congress and presented to the president actually consists of separate bills for various purposes. This pretense was effectuated by putting language in legislation to that effect.

President Clinton was not then asking for my policy views, and I did not have to reconcile my advice with my policy bias toward the first branch of government—Congress. But I was uneasy enough to become more sympathetic to the late Justice Robert Jackson's handling of a similar dilemma in one of the Supreme Court opinions. He acknowledged his apostasy concerning an issue on which he had opined to the contrary during his tenure as attorney general. Quoting another, Justice Jackson wrote, "The matter does not appear to me now as it appears to have appeared to me then."

My apostasy was less public. My memo to the president was only an internal document, and I didn't have to tell him how I felt about the line-item veto. But now that I have no representational responsibilities, I prefer to stand with Sen. Byrd.

THE COLLEGE OF WILLIAM & MARY,
SCHOOL OF LAW.
Williamsburg, VA, March 27, 1996.

Hon. DANIEL PATRICK MOYNIHAN,
U.S. Senate,
Washington, DC.

DEAR SENATOR MOYNIHAN: I appreciate the chance to share with you my opinion on the constitutionality of the Line Item Veto Act of 1996, as set forth in the Conference Report, dated March 4, 1996 (hereinafter "the Republican draft" or "the Conference Report"). In this letter, I focus only on a few of the more serious problems with the Republican Draft and do not purport to analyze exhaustively its constitutionality. Even no, I am of the view that, given just the few significant flaws in the Conference Report that I identify and explain below, its constitutionality is plainly doomed.

Describing how the law works is crucial for identifying and understanding the constitutional and practical problems posed by some of its major provisions. As I read it, the critical delegation made by the Republican draft to the President is the authority to "cancel" all or any part of "discretionary budget authority," "any item of direct spending," or "any targeted tax benefit." Presumably, a presidential cancellation pursuant to the act has the effect of nullifying a portion of a budgetary or appropriations bill unless a majority of each chamber of Congress agrees within a specific time period to pass a "disapproval bill" specifying it intention to reauthorize the particular item cancelled by the President. The President may veto the disapproval bill, which can then become law only if two-thirds of each chamber of Congress agree to override his veto.

In my opinion, there are three fatal constitutional problems with the procedures outlined above. First, the law effectively allows any portion of a bill enacted by Congress that the President signs into law but does not cancel to become law, in spite of the fact that Congress will have never voted on it as such. This kind of lawmaking by the President clearly violates Article I, section 1, which grants "[a]ll legislative powers" to Congress, and Article I, section 7, which grants to Congress alone the discretion to package bills as it sees fit.

Article I states further that the President's veto power applies to "every Bill . . ., Every Order, Resolution or Veto to which the Concurrence of the Senate and House of Representatives may be necessary."[1] This means the President may wield his veto on the legislative product only, as Harvard Law Professor Laurence Tribe maintains in his treatise, "in the form in which Congress has chosen to send it to the White House: be the bill small or large, its concerns focused or diffuse, its form particular or omnibus, the President must accept or reject the entire thing, swallowing the bitter with the sweet."[2] Tribe's subsequent change of position is of no consequence, because he was right in his initial understanding of the constitutional dynamics of a statutorily created line-item veto mechanism. The fact that the President has signed the law as enacted is irrelevant, because a law is valid only if it takes effect in the precise configuration approved by the Congress. The President does not have the authority to put into effect as a law only part of what Congress has passed as such. The particular form a bill should have as a law is, as the Supreme Court has said, the "kind of decision that can be implemented only in accordance with the procedures set out in Article I."[3]

The Conference Report would enable the President to make affirmative budgetary choices that the framers definitely wanted to preclude him from making. The framers deliberately chose to place the power of the purse outside of the executive because they feared the consequences of centralizing the

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Footnotes at end of letter.

powers of the purse and the sword. As James Madison wrote in the Federalist No. 58, "This power of the purse may, in fact, be regarded as the most complete and effectual weapon with which any constitution can arm the immediate representatives of the people."[4] Every Congress (until perhaps this most recent one)—as well as all of the early presidents, for that matter—has shared the understandings that only the Congress has the authority to decide how to package legislation, that this authority is a crucial component of checks and balances, and that the President's veto authority is strictly a negative power that enables him to strike down but not to rewrite whatever a majority of Congress has sent to him as a bill.

The wisdom of leaving the power of the purse in Congress, as the framers desired as a means of checking the executive, is buttressed by the recognition that pork barrel appropriations—the evil sought to be eliminated by the Republican draft—are just unattractive examples of legislating for diverse interests, which is the very stuff of representative government. Apportioning the public fisc in a large and diverse nation requires degrees of coordination and compromise that the framers left to the initial discretion of Congress to be undone only as specified in Article I.

The second constitutional defect with the Conference Report's basic procedures involves the legitimacy of the cancelling authority given to the President. Proponents of this cancellation power defend it as a legitimate delegation of congressional authority to the President; however, this argument rests on a misunderstanding of the relevant constitutional doctrine. This misunderstanding is reflected in the CRS Report, which claims erroneously that "while the [Supreme] Court has used a balancing test in some separation of powers cases, it has never chosen to do so in delegation cases."[5] The latter assertion is simply wrong.

In fact, the Supreme Court has issued two lines of cases on congressional delegations. The first, which is not implicated by the Conference Report, involves delegations from Congress to administrative agencies or inferior bodies. The Court tends to evaluate such delegations under a "functionalist" approach to separation of powers under which the Court balances the competing concerns or interests at stake to ensure that the core function of a branch is not frustrated. For example, the Court used this approach in *Morrison* v. *Olson*[6] to uphold the Independent Counsel Act in which the Congress had delegated the executive function of criminal prosecution to an individual not formally associated with any of the three branches. Similarly, in *Mistretta* v. *United States*,[7] the Court upheld the constitutionality of the composition and lawmaking function of the United States Sentencing Commission, at least three of whose members are required by statute to be lower court judges and to which the Congress delegated the authorities to promulgate, review, and revise sentence-determinative guidelines.

The Republican Draft clearly violates, however, the second line of Supreme Court decisions on congressional delegations. These cases involve delegations from Congress to the titular head of a branch, such as one of its chambers or the President. In these cases, the Court has not used a balancing test; rather, the Court has used a "formalist" approach that treats the Constitution as granting to each branch distinct powers and setting forth the maximum degree to which the branches may share those powers. A formalist approach to separation of powers treats the text of the Constitution and the intent of its drafters as controlling and changed circumstances and broader policy outcomes as irrelevant to constitutional outcomes. In recent years, the Court has used this approach to strike down the legislative veto in *Chadha* because it would have allowed one House to take legislative action without complying with the procedures set forth in Article I; to hold in *Bowsher* v. *Synar*[8] that Congress may not delegate executive budgetary functions to an official over whom Congress has removal power; and to strike down in *Washington Airports Authority* v. *Citizens for the Abatement of Aircraft Noise*[9] the creation of a Board of Review partially composed of members of Congress with executive veto-like power over the decisions of the directors of the Metropolitan Washington Airports Authority.

Undoubtedly, the Court would follow a formalist approach in striking down the Republican draft. For one thing, the Court would not be able to escape applying the logic of *Bowsher* v. *Synar* to the proposed law. Whereas the crucial problem *Bowsher* was Congress' attempt to authorize the exercise of certain executive authority by a legislative agent—the Comptroller General, here the problem is that the President would plainly be exercising what everyone agrees is legislative authority—the discretion to determine the particular configuration of a bill that will become law. Even the law's proponent's admit it allows the President to exercise legislative authority, albeit in their view delegated to him by Congress.

Formalist analysis would be appropriate in evaluating such a delegation's constitutionality because it would be the kind about which the framers were most concerned; the checks and balances set forth in the Constitution deal directly with how the titular heads of each branch should interrelate. Hence, the Court has opted for a formalist approach to deal with delegations between the branches at their respective apexes to preclude one branch from aggrandizing itself at the expense of another. The Conference Report would clearly undermine the balance of power between the branches at the top, because it would eliminate the Congress's primacy in the budget area and would unravel the framers' considered judgment to restrict the President's role in the lawmaking process to a qualified negative rather than to have him exercise an affirmative power to redraft or reconfigure a bill.

Even if the Court used a functionalist approach to evaluate the constitutionality of the Republican draft, it would strike down the proposed law. The reason is that the law establishes an uneven playing field for the President and Congress on budgetary matters. In so doing, it profoundly alters the balance of power set forth in the Constitution. As Professor Tribe recognizes further in his treatise, such a scheme "would enable the President to nullify new congressional sending initiatives and priorities as well as to wipe out previously enacted programs that receive their funding through the annual appropriations process. Congress, which the Constitution makes the master of the public purse, would be demoted to the role of giving fiscal advice that the President would be effectively free to disregard.[10] Once again Tribe's subsequent change of position does not undermine the soundness of his initial reasoning, for the historical record is clear that the framers, as Tribe has recognized himself, never intended nor tried to grant the President any "special veto power over appropriation bills, despite their awareness that the insistence of colonial assemblies that their spending bills could not be amended once they had passed the lower house had greatly enhanced the growth of legislative power.[11]

An example should illustrate the problematic features of the proposed cancellation mechanism. Suppose that 55% of Congress passes a law, including expenditures for a new Veterans Administration hospital in New York. The President decides he would prefer for Congress not to spend any federal money on this project, so, after signing the bill into law, he exercises his authority to cancel the allocations made for the new facility. Again 55% of the Congress agrees to make this expenditure but this time through the passage of a disapproval bill. The President vetoes the latter, and Congress fails to override his veto, with only 55% of Congress (yet again) voting for the appropriation. The net effect is that the President would get to refuse to spend money 55% of the Congress will have thrice said it wanted to spend. Thus, the Conference Report would require Congress to vote as many as three separate times to fund something while assuming in the process an increasingly defensive posture vis-a-vis the President. In other words, the Republican draft allows the President to force Congress to go through two majority votes—the second of which is much more difficult to attain because it would have to be in favor of a specific expenditure that is now severed from the other items of the compromise giving rise to its inclusion in the first place—and one supermajority vote in order to put into law a particular expenditure.

A third constitutional problem with the Conference Report involves the constraints it tries to place on the President's cancellation authority. The latter if for all intents and purposes a veto. It has the effect of a veto because it forces Congress in the midst of the lawmaking process into repassing something as a bill that ultimately must carry a supermajority of each chamber in order to become law. Nevertheless, the Conference Report attempts to constrain the reasons the President may have for cancelling some part of a budget or appropriations bill. Just as Congress lacks the authority through legislation to enhance presidential authority in the lawmaking process by empowering him to reconfigure what Congress has passed as a bill into some other form prior to its becoming a law, Congress lacks the authority to restrict presidential authority by limiting the grounds a president may consider as appropriate for vetoing something.

Even apart from whatever constitutional problems the Conference Report may have, it poses two serious practical problems. First, the possibility for substantial judicial review of presidential or congressional compliance with the Republican draft is quite high. For example, it seems likely that lawsuits could be brought challenging whether the President has appropriately considered, as the act directs, such things as "the legislative history" or "any specific sources of information referenced in such law or, in the absence of specific sources of information, the best available information" or "the specific definitions contained" within it. At the very least, the bill requires that the President make some showing that he has done these things to the satisfaction of members of Congress (or at least those disposed to bring a lawsuit in the absence of such a showing). There are also numerous procedures OMB

and each house of Congress must follow that, presumably, could become the basis for judicial challenge if not done completely to the satisfaction of partisan foes in the other branch. In addition, there may be some questions as whether the President has in fact complied with Congress' or the Republican draft's understanding of the kinds of items he may cancel, such as a "targeted tax benefit."

The likely prospect of substantial judicial interference with the budgetary process is unsettling. The framers deliberately excluded the unelected federal judiciary from exercising any kind of decisive role in budgetary negotiations or deliberations. The Republican draft does not ensure that this exclusion will always be honored. The framers wanted all of the key decisionmakers within budget negotiations to be politically accountable; any budgetary impasse between the President and Congress that the federal courts help to resolve in favor of one or the other will simply diminish even further the public's confidence that the political process is the place to turn for answers to such deadlocks.

Another practical difficulty is with the authorization made by the Republican draft to the Joint Committee on Taxation to render an official opinion, which may become a part of a budgetary or appropriations measure, on whether it "contains any targeted tax benefit." The bill precludes the House or the Senate from taking issue with the judgment of the Joint Committee's finding. As a practical matter, this empowers a small number of members of Congress to impose their will on the whole body. Although this might have the salutary effect of expediting the passage of the covered legislation, it forces those members of Congress who disagree with the Joint Committee to express their disagreement only by voting down rather than by trying to amend a bill that they otherwise would support.

In summary, I believe that the Republican draft conflicts with the plain language, structure, and traditional understanding of the lawmaking procedure set forth in Article I; relevant Supreme Court doctrine; and the delicate balance of power between Congress and the President on budget matters. I am confident that the Supreme Court ultimately would strike the bill down if it were passed by Congress and signed into law by the President.

It has been a privilege for me to share my opinions about the Conference Report with you. If you have any other questions or need any further analysis, please do not hesitate to let me know.

Very truly yours,

MICHAEL J. GERHARDT,
Professor of Law.

FOOTNOTES

[1] U.S. Const. art. I, section 7, cls. 2, 3.

[2] Laurence Tribe, American Constitutional Law 265 (2d ed. 1988).

[3] *I.N.S.* v. *Chadha*, 462 U.S. 919, 954 (1982).

[4] The Federalist No. 58 at 300 (J. Madison) (M. Beloff ed. 1987).

[5] Congressional Research Service, Memorandum Regarding Constitutional Questions Respecting Bill to Grant President Enhanced Rescission Authority over Appropriations and Targeted Tax Benefits, at 16 (January 9, 1995).

[6] 487 U.S. 654, 693 (1988).

[7] 488 U.S. 361 (1989).

[8] 111 U.S. 714 (1986).

[9] 478 S. Ct. 2298 (1991).

[10] L. Tribe, *supra* note 2, at 267 (footnotes omitted).

[11] *Id.* at 267 (citing Note, "Is a Presidential Item Veto Constitutional?" 96 Yale L.J. 838, 841–44 (1987)).

MOTION TO RECOMMIT

Mr. BYRD. Mr. President, I send to the desk a motion to recommit the conference report.

The PRESIDING OFFICER (Mr. THOMAS). The clerk will report the motion.

The legislative clerk read as follows:

The Senator from West Virginia [Mr. BYRD] moves to recommit the conference report on bill S. 4 to the committee of conference with instructions to the managers on the part of the Senate to disagree to the conference substitute recommended by the committee of conference.

Mr. BYRD. Mr. President, I ask unanimous consent further reading of the motion be dispensed with.

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

The motion is as follows:

Motion to recommit conference report on the bill S. 4 to the committee of conference with instructions to the managers on the part of the Senate to disagree to the conference substitute recommended by the committee of conference and insist on inserting the text of S. 14 as introduced in the Senate on January 4, 1995 (with certain exceptions) which is as follows:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Legislative Line Item Veto Act".

SEC. 2. EXPEDITED CONSIDERATION OF CERTAIN PROPOSED RESCISSIONS AND REPEALS OF TAX EXPENDITURES AND DIRECT SPENDING.

(a) IN GENERAL.—Title X of the Congressional Budget and Impoundment Control Act of 1974 (2 U.S.C. 621 et seq.) is amended by adding after section 1012 the following new section:

"EXPEDITED CONSIDERATION OF CERTAIN PROPOSED RESCISSIONS AND REPEALS OF TAX EXPENDITURES AND DIRECT SPENDING

"SEC. 1012A. (a) PROPOSED CANCELLATION OF BUDGET ITEM.—The President may propose, at the time and in the manner provided in subsection (b), the cancellation of any budget item provided in any Act.

"(b) TRANSMITTAL OF SPECIAL MESSAGE.—

"(1)(A) Subject to the time limitations provided in subparagraph (B), the President may transmit to Congress a special message proposing to cancel budget items and include with that special message a draft bill that, if enacted, would only cancel those budget items as provided in this section. The bill shall clearly identify each budget item that is proposed to be canceled including, where applicable, each program, project, or activity to which the budget item relates. The bill shall specify the amount, if any, of each budget item that the President designates for deficit reduction as provided in paragraph (4).

"(B) A special message may be transmitted under this section—

"(i) during the 20-calendar-day period (excluding Saturdays, Sundays, and legal holidays) commencing on the day after the date of enactment of the provision proposed to be rescinded or repealed; or

"(ii) at the same time as the President's budget.

"(2) In the case of an Act that includes budget items within the jurisdiction of more than one committee of a House, the President in proposing to cancel such budget item under this section shall send a separate special message and accompanying draft bill for each such committee.

"(3) Each special message shall specify, with respect to the budget item proposed to be canceled—

"(A) the amount that the President proposes be canceled;

"(B) any account, department, or establishment of the Government to which such budget item is available for obligation, and the specific project or governmental functions involved;

"(C) the reasons why the budget item should be canceled;

"(D) to the maximum extent practicable, the estimated fiscal, economic, and budgetary effect (including the effect on outlays and receipts in each fiscal year) of the proposed cancellation; and

"(E) all facts, circumstances, and considerations relating to or bearing upon the proposed cancellation and the decision to effect the proposed cancellation, and to the maximum extent practicable, the estimated effect of the proposed cancellation upon the objects, purposes, and programs for which the budget item is provided.

"(4)(A) Not later than 5 days after the date of enactment of a bill containing an amount designated by the President for deficit reduction under paragraph (1), the President shall—

"(i) with respect to a rescission bill, reduce the discretionary spending limits under section 601 of the Congressional Budget Act of 1974 for the budget year and each outyear to reflect such amount; and

"(ii) with respect to a repeal of a tax expenditure or direct spending, adjust the balances for the budget year and each outyear under section 252(b) of the Balanced Budget and Emergency Deficit Control Act of 1985 to reflect such amount.

"(B) Not later than 5 days after the date of enactment of a bill containing an amount designated by the President for deficit reduction under paragraph (1), the chairs of the Committees on the Budget of the Senate and the House of Representatives shall revise levels under section 311(a) and adjust the committee allocations under section 602(a) to reflect such amount.

"(c) PROCEDURES FOR EXPEDITED CONSIDERATION.—

"(1)(A) Before the close of the second day of session of the Senate and the House of Representatives, respectively, after the date of receipt of a special message transmitted to Congress under subsection (b), the majority leader or minority leader of each House shall introduce (by request) the draft bill accompanying that special message. If the bill is not introduced as provided in the preceding sentence in either House, then, on the third day of session of that House after the date of receipt of that special message, any Member of that House may introduce the bill.

"(B) The bill shall be referred to the appropriate committee or (in the House of Representatives) committees. The committee shall report the bill without substantive revision and with or without recommendation. The committee shall report the bill not later than the seventh day of session of that House after the date of receipt of that special message. If the committee fails to report the bill within that period, the committee shall be automatically discharged from consideration of the bill, and the bill shall be placed on the appropriate calendar.

"(C) A vote on final passage of the bill shall be taken in the Senate and the House of Representatives on or before the close of the 10th day of session of that House after the date of the introduction of the bill in

that House. If the bill is passed, the Clerk of the Senate or the House of Representatives, as the case may be, shall cause the bill to be engrossed, certified, and transmitted to the other House within one calendar day of the day on which the bill is passed.

"(2)(A) During consideration under this subsection in the House of Representatives, any Member of the House of Representatives may move to strike any proposed cancellation of a budget item.

"(B) A motion in the House of Representatives to proceed to the consideration of a bill under this subsection shall be highly privileged and not debatable. An amendment to the motion shall not be in order, nor shall it be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

"(C) Debate in the House of Representatives on a bill under this subsection shall not exceed 4 hours, which shall be divided equally between those favoring and those opposing the bill. A motion further to limit debate shall not be debatable. It shall not be in order to move to recommit a bill under this subsection or to move to reconsider the vote by which the bill is agreed to or disagreed to.

"(D) Appeals from decisions of the Chair relating to the application of the Rules of the House of Representatives to the procedure relating to a bill under this section shall be decided without debate.

"(E) Except to the extent specifically provided in this section, consideration of a bill under this section shall be governed by the Rules of the House of Representatives. It shall not be in order in the House of Representatives to consider any rescission bill introduced pursuant to the provisions of this section under a suspension of the rules or under a special rule.

"(3)(A) During consideration of a bill under this subsection in the Senate, any Member of the Senate may move to strike any proposed cancellation of a budget item.

"(B) It shall not be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

"(C) Debate in the Senate on a bill under this subsection, and all debatable motions and appeals in connection therewith (including debate pursuant to subparagraph (D)), shall not exceed 10 hours. The time shall be equally divided between, and controlled by, the majority leader and the minority leader or their designees.

"(D) Debate in the Senate on any debatable motion or appeal in connection with a bill under this subsection shall be limited to not more than 1 hour, to be equally divided between, and controlled by, the mover and the manager of the bill, except that in the event the manager of the bill is in favor of any such motion or appeal, the time in opposition thereto, shall be controlled by the minority leader or his designee. Such leaders, or either of them, may, from time under their control on the passage of a bill, allot additional time to any Senator during the consideration of any debatable motion or appeal.

"(E) A motion in the Senate to further limit debate on a bill under this subsection is not debatable. A motion to recommit a bill under this subsection is not in order.

"(F) If the Senate proceeds to consider a bill introduced in the House of Representatives under paragraph (1)(A), then any Senator may offer as an amendment the text of the companion bill introduced in the Senate under paragraph (1)(A) as amended if amended (under subparagraph (A)). Debate in the Senate on such bill introduced in the House of Representatives, and all debatable motions and appeals in connection therewith (including debate pursuant to subparagraph (D)), and any amendment offered under this subparagraph, shall not exceed 10 hours minus such times (if any) as Senators consumed or yielded back during consideration of the companion bill introduced in the Senate under paragraph (1)(A).

"(4) Debate in the House of Representatives or the Senate on the conference report on any bill considered under this section shall be limited to not more than 2 hours, which shall be divided equally between the majority leader and the minority leader. A motion further to limit debate is not debatable. A motion to recommit the conference report is not in order, and it is not in order to move to reconsider the vote by which the conference report is agreed to or disagreed to.

"(d) AMENDMENTS AND DIVISIONS PROHIBITED.—Except as otherwise provided by this section, no amendment to a bill considered under this section shall be in order in either the Senate or the House of Representatives. It shall not be in order to demand a division of the question in the House of Representatives (or in a Committee of the Whole). No motion to suspend the application of this subsection shall be in order in the House of Representatives, nor shall it be in order in the House of Representatives to suspend the application of this subsection by unanimous consent.

"(e) TEMPORARY PRESIDENTIAL AUTHORITY TO RESCIND.—At the same time as the President transmits to Congress a special message proposing to rescind budget authority, the President may direct that any budget authority proposed to be rescinded in that special message shall not be made available for obligation for a period not to exceed 45 calendar days from the date the President transmits the special message to Congress.

"(f) DEFINITIONS.—For purposes of this section—

"(1) the term 'appropriation Act' means any general or special appropriation Act, and any Act or joint resolution making supplemental, deficiency, or continuing appropriations;

"(2) the term 'direct spending' shall have the same meaning given such term in section 250(c)(8) of the Balanced Budget and Emergency Deficit Control Act of 1985;

"(3) the term 'budget item' means—

"(A) an amount, in whole or in part, of budget authority provided in an appropriation Act;

"(B) an amount of direct spending; or

"(C) a targeted tax benefit;

"(4) the term 'cancellation of a budget item' means—

"(A) the rescission of any budget authority provided in an appropriation Act;

"(B) the repeal of any amount of direct spending; or

"(C) the repeal of any targeted tax benefit; and

"(5) the term 'targeted tax benefit' means any provision which has the practical effect of providing a benefit in the form of a different treatment to a particular taxpayer or a limited class of taxpayers, whether or not such provision is limited by its terms to a particular taxpayer or a class of taxpayers. Such term does not include any benefit provided to a class of taxpayers distinguished on the basis of general demographic conditions such as income, number of dependents, or marital status.".

(b) EXERCISE OF RULEMAKING POWERS.—Section 904 of the Congressional Budget Act of 1974 (2 U.S.C. 621 note) is amended—

(1) in subsection (a), by striking "and 1017" and inserting "1012A, and 1017"; and

(2) in subsection (d), by striking "section 1017" and inserting "sections 1012A and 1017".

(c) CLERICAL AMENDMENTS.—The table of sections for subpart B of title X of the Congressional Budget and Impoundment Control Act of 1974 is amended by inserting after the item relating to section 1012 the following:

"Sec. 1012A. Expedited consideration of certain proposed rescissions and repeals of tax expenditures and direct spending.".

(d) EFFECTIVE PERIOD.—The amendments made by this Act shall—

(1) take effect on the date of enactment of this Act;

(2) apply only to budget items provided in Acts enacted on or after the date of enactment of this Act; and

(3) cease to be effective on September 30, 2002.

Mr. BYRD. Mr. President, I ask for the yeas and nays on the motion.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. DOMENICI. Mr. President, were the yeas and nays ordered?

The PRESIDING OFFICER. The yeas and nays have been ordered, yes.

AMENDMENT NO. 3665 TO MOTION TO RECOMMIT

Mr. BYRD. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from West Virginia [Mr. BYRD] proposes an amendment numbered 3665.

Mr. BYRD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

In lieu of the instructions insert the following: "with instructions to the managers on the part of the Senate to disagree to the conference substitute recommended by the committee of conference and insist on inserting the text of S. 14 as introduced in the Senate on January 4, 1995 (with certain exceptions) which is as follows:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Legislative Line Item Veto Act".

SEC. 2. EXPEDITED CONSIDERATION OF CERTAIN PROPOSED RESCISSIONS AND REPEALS OF TAX EXPENDITURES AND DIRECT SPENDING.

(a) IN GENERAL.—Title X of the Congressional Budget and Impoundment Control Act of 1974 (2 U.S.C. 621 et seq.) is amended by adding after section 1012 the following new section:

"EXPEDITED CONSIDERATION OF CERTAIN PROPOSED RESCISSIONS AND REPEALS OF TAX EXPENDITURES AND DIRECT SPENDING

"SEC. 1012A. (a) PROPOSED CANCELLATION OF BUDGET ITEM.—The President may propose, at the time and in the manner provided in subsection (b), the cancellation of any budget item provided in any Act.

"(b) TRANSMITTAL OF SPECIAL MESSAGE.—

"(1)(A) Subject to the time limitations provided in subparagraph (B), the President

may transmit to Congress a special message proposing to cancel budget items and include with that special message a draft bill that, if enacted, would only cancel those budget items as provided in this section. The bill shall clearly identify each budget item that is proposed to be canceled including, where applicable, each program, project, or activity to which the budget item relates. The bill shall specify the amount, if any, of each budget item that the President designates for deficit reduction as provided in paragraph (4).

"(B) A special message may be transmitted under this section—

"(i) during the 20-calendar-day period (excluding Saturdays, Sundays, and legal holidays) commencing on the day after the date of enactment of the provision proposed to be rescinded or repealed; or

"(ii) at the same time as the President's budget.

"(2) In the case of an Act that includes budget items within the jurisdiction of more than one committee of a House, the President in proposing to cancel such budget item under this section shall send a separate special message and accompanying draft bill for each such committee.

"(3) Each special message shall specify, with respect to the budget item proposed to be canceled—

"(A) the amount that the President proposes be canceled;

"(B) any account, department, or establishment of the Government to which such budget item is available for obligation, and the specific project or governmental functions involved;

"(C) the reasons why the budget item should be canceled;

"(D) to the maximum extent practicable, the estimated fiscal, economic, and budgetary effect (including the effect on outlays and receipts in each fiscal year) of the proposed cancellation; and

"(E) all facts, circumstances, and considerations relating to or bearing upon the proposed cancellation and the decision to effect the proposed cancellation, and to the maximum extent practicable, the estimated effect of the proposed cancellation upon the objects, purposes, and programs for which the budget item is provided.

"(4)(A) Not later than 5 days after the date of enactment of a bill containing an amount designated by the President for deficit reduction under paragraph (1), the President shall—

"(i) with respect to a rescission bill, reduce the discretionary spending limits under section 601 of the Congressional Budget Act of 1974 for the budget year and each outyear to reflect such amount; and

"(ii) with respect to a repeal of a tax expenditure or direct spending, adjust the balances for the budget year and each outyear under section 252(b) of the Balanced Budget and Emergency Deficit Control Act of 1985 to reflect such amount.

"(B) Not later than 5 days after the date of enactment of a bill containing an amount designated by the President for deficit reduction under paragraph (1), the chairs of the Committees on the Budget of the Senate and the House of Representatives shall revise levels under section 311(a) and adjust the committee allocations under section 602(a) to reflect such amount.

"(c) PROCEDURES FOR EXPEDITED CONSIDERATION.—

"(1)(A) Before the close of the second day of session of the Senate and the House of Representatives, respectively, after the date of receipt of a special message transmitted to Congress under subsection (b), the majority leader or minority leader of each House shall introduce (by request) the draft bill accompanying that special message. If the bill is not introduced as provided in the preceding sentence in either House, then, on the third day of session of that House after the date of receipt of that special message, any Member of that House may introduce the bill.

"(B) The bill shall be referred to the appropriate committee or (in the House of Representatives) committees. The committee shall report the bill without substantive revision and with or without recommendation. The committee shall report the bill not later than the seventh day of session of that House after the date of receipt of that special message. If the committee fails to report the bill within that period, the committee shall be automatically discharged from consideration of the bill, and the bill shall be placed on the appropriate calendar.

"(C) A vote on final passage of the bill shall be taken in the Senate and the House of Representatives on or before the close of the 10th day of session of that House after the date of the introduction of the bill in that House. If the bill is passed, the Clerk of the Senate or the House of Representatives, as the case may be, shall cause the bill to be engrossed, certified, and transmitted to the other House within one calendar day of the day on which the bill is passed.

"(2)(A) During consideration under this subsection in the House of Representatives, any Member of the House of Representatives may move to strike any proposed cancellation of a budget item.

"(B) A motion in the House of Representatives to proceed to the consideration of a bill under this subsection shall be highly privileged and not debatable. An amendment to the motion shall not be in order, nor shall it be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

"(C) Debate in the House of Representatives on a bill under this subsection shall not exceed 4 hours, which shall be divided equally between those favoring and those opposing the bill. A motion further to limit debate shall not be debatable. It shall not be in order to move to recommit a bill under this subsection or to move to reconsider the vote by which the bill is agreed to or disagreed to.

"(D) Appeals from decisions of the Chair relating to the application of the Rules of the House of Representatives to the procedure relating to a bill under this section shall be decided without debate.

"(E) Except to the extent specifically provided in this section, consideration of a bill under this section shall be governed by the Rules of the House of Representatives. It shall not be in order in the House of Representatives to consider any rescission bill introduced pursuant to the provisions of this section under a suspension of the rules or under a special rule.

"(3)(A) During consideration of a bill under this subsection in the Senate, any Member of the Senate may move to strike any proposed cancellation of a budget item.

"(B) It shall not be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

"(C) Debate in the Senate on a bill under this subsection, and all debatable motions and appeals in connection therewith (including debate pursuant to subparagraph (D)), shall not exceed 10 hours. The time shall be equally divided between, and controlled by, the majority leader and the minority leader or their designees.

"(D) Debate in the Senate on any debatable motion or appeal in connection with a bill under this subsection shall be limited to not more than 1 hour, to be equally divided between, and controlled by, the mover and the manager of the bill, except that in the event the manager of the bill is in favor of any such motion or appeal, the time in opposition thereto, shall be controlled by the minority leader or his designee. Such leaders, or either of them, may, from time under their control on the passage of a bill, allot additional time to any Senator during the consideration of any debatable motion or appeal.

"(E) A motion in the Senate to further limit debate on a bill under this subsection is not debatable. A motion to recommit a bill under this subsection is not in order.

"(F) If the Senate proceeds to consider a bill introduced in the House of Representatives under paragraph (1)(A), then any Senator may offer as an amendment the text of the companion bill introduced in the Senate under paragraph (1)(A) as amended if amended (under subparagraph (A)). Debate in the Senate on such bill introduced in the House of Representatives, and all debatable motions and appeals in connection therewith (including debate pursuant to subparagraph (D)), and any amendment offered under this subparagraph, shall not exceed 10 hours minus such times (if any) as Senators consumed or yielded back during consideration of the companion bill introduced in the Senate under paragraph (1)(A).

"(4) Debate in the House of Representatives or the Senate on the conference report on any bill considered under this section shall be limited to not more than 2 hours, which shall be divided equally between the majority leader and the minority leader. A motion further to limit debate is not debatable. A motion to recommit the conference report is not in order, and it is not in order to move to reconsider the vote by which the conference report is agreed to or disagreed to.

"(d) AMENDMENTS AND DIVISIONS PROHIBITED.—Except as otherwise provided by this section, no amendment to a bill considered under this section shall be in order in either the Senate or the House of Representatives. It shall not be in order to demand a division of the question in the House of Representatives (or in a Committee of the Whole). No motion to suspend the application of this subsection shall be in order in the House of Representatives, nor shall it be in order in the House of Representatives to suspend the application of this subsection by unanimous consent.

"(e) TEMPORARY PRESIDENTIAL AUTHORITY TO RESCIND.—At the same time as the President transmits to Congress a special message proposing to rescind budget authority, the President may direct that any budget authority proposed to be rescinded in that special message shall not be made available for obligation for a period not to exceed 45 calendar days from the date the President transmits the special message to Congress.

"(f) DEFINITIONS.—For purposes of this section—

"(1) the term 'appropriation Act' means any general or special appropriation Act, and any Act or joint resolution making supplemental, deficiency, or continuing appropriations;

"(2) the term 'direct spending' shall have the same meaning given such term in section 250(c)(8) of the Balanced Budget and Emergency Deficit Control Act of 1985;

"(3) the term 'budget item' means—

"(A) an amount, in whole or in part, of budget authority provided in an appropriation Act;

"(B) an amount of direct spending; or

"(C) a targeted tax benefit;

"(4) the term 'cancellation of a budget item' means—

"(A) the rescission of any budget authority provided in an appropriation Act;

"(B) the repeal of any amount of direct spending; or

"(C) the repeal of any targeted tax benefit; and

"(5) the term 'targeted tax benefit' means any provision which has the practical effect of providing a benefit in the form of a different treatment to a particular taxpayer or a limited class of taxpayers, whether or not such provision is limited by its terms to a particular taxpayer or a class of taxpayers. Such term does not include any benefit provided to a class of taxpayers distinguished on the basis of general demographic conditions such as income, number of dependents, or marital status.".

(b) EXERCISE OF RULEMAKING POWERS.—Section 904 of the Congressional Budget Act of 1974 (2 U.S.C. 621 note) is amended—

(1) in subsection (a), by striking "and 1017" and inserting "1012A, and 1017"; and

(2) in subsection (d), by striking "section 1017" and inserting "sections 1012A and 1017".

(c) CLERICAL AMENDMENTS.—The table of sections for subpart B of title X of the Congressional Budget and Impoundment Control Act of 1974 is amended by inserting after the item relating to section 1012 the following:

"Sec. 1012A. Expedited consideration of certain proposed rescissions and repeals of tax expenditures and direct spending.".

(d) EFFECTIVE PERIOD.—The amendments made by this Act shall—

(1) take effect on the date that is 1 day after the date of enactment of this Act;

(2) apply only to budget items provided in Acts enacted on or after the date of enactment of this Act; and

(3) cease to be effective on September 30, 2002.".

Mr. BYRD. 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.

AMENDMENT NO. 3666 TO AMENDMENT NO. 3665

Mr. BYRD. Mr. President, I send another amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from West Virginia [Mr. BYRD] proposes an amendment numbered 3666 to amendment No. 3665.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

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

The amendment is as follows:

Strike all after the first word in the substitute amendment and insert the following: "instructions to the managers on the part of the Senate to disagree to the conference substitute recommended by the committee of conference and insist on inserting the text of S. 14 as introduced in the Senate on January 4, 1995 (with certain exceptions) which is as follows:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Legislative Line Item Veto Act".

SEC. 2. EXPEDITED CONSIDERATION OF CERTAIN PROPOSED RESCISSIONS AND REPEALS OF TAX EXPENDITURES AND DIRECT SPENDING.

(a) IN GENERAL.—Title X of the Congressional Budget and Impoundment Control Act of 1974 (2 U.S.C. 621 et seq.) is amended by adding after section 1012 the following new section:

"EXPEDITED CONSIDERATION OF CERTAIN PROPOSED RESCISSIONS AND REPEALS OF TAX EXPENDITURES AND DIRECT SPENDING

"SEC. 1012A. (a) PROPOSED CANCELLATION OF BUDGET ITEM.—The President may propose, at the time and in the manner provided in subsection (b), the cancellation of any budget item provided in any Act.

"(b) TRANSMITTAL OF SPECIAL MESSAGE.—

"(1)(A) Subject to the time limitations provided in subparagraph (B), the President may transmit to Congress a special message proposing to cancel budget items and include with that special message a draft bill that, if enacted, would only cancel those budget items as provided in this section. The bill shall clearly identify each budget item that is proposed to be canceled including, where applicable, each program, project, or activity to which the budget item relates. The bill shall specify the amount, if any, of each budget item that the President designates for deficit reduction as provided in paragraph (4).

"(B) A special message may be transmitted under this section—

"(i) during the 20-calendar-day period (excluding Saturdays, Sundays, and legal holidays) commencing on the day after the date of enactment of the provision proposed to be rescinded or repealed; or

"(ii) at the same time as the President's budget.

"(2) In the case of an Act that includes budget items within the jurisdiction of more than one committee of a House, the President in proposing to cancel such budget item under this section shall send a separate special message and accompanying draft bill for each such committee.

"(3) Each special message shall specify, with respect to the budget item proposed to be canceled—

"(A) the amount that the President proposes be canceled;

"(B) any account, department, or establishment of the Government to which such budget item is available for obligation, and the specific project or governmental functions involved;

"(C) the reasons why the budget item should be canceled;

"(D) to the maximum extent practicable, the estimated fiscal, economic, and budgetary effect (including the effect on outlays and receipts in each fiscal year) of the proposed cancellation; and

"(E) all facts, circumstances, and considerations relating to or bearing upon the proposed cancellation and the decision to effect the proposed cancellation, and to the maximum extent practicable, the estimated effect of the proposed cancellation upon the objects, purposes, and programs for which the budget item is provided.

"(4)(A) Not later than 5 days after the date of enactment of a bill containing an amount designated by the President for deficit reduction under paragraph (1), the President shall—

"(i) with respect to a rescission bill, reduce the discretionary spending limits under section 601 of the Congressional Budget Act of 1974 for the budget year and each outyear to reflect such amount; and

"(ii) with respect to a repeal of a tax expenditure or direct spending, adjust the balances for the budget year and each outyear under section 252(b) of the Balanced Budget and Emergency Deficit Control Act of 1985 to reflect such amount.

"(B) Not later than 5 days after the date of enactment of a bill containing an amount designated by the President for deficit reduction under paragraph (1), the chairs of the Committees on the Budget of the Senate and the House of Representatives shall revise levels under section 311(a) and adjust the committee allocations under section 602(a) to reflect such amount.

"(c) PROCEDURES FOR EXPEDITED CONSIDERATION.—

"(1)(A) Before the close of the second day of session of the Senate and the House of Representatives, respectively, after the date of receipt of a special message transmitted to Congress under subsection (b), the majority leader or minority leader of each House shall introduce (by request) the draft bill accompanying that special message. If the bill is not introduced as provided in the preceding sentence in either House, then, on the third day of session of that House after the date of receipt of that special message, any Member of that House may introduce the bill.

"(B) The bill shall be referred to the appropriate committee or (in the House of Representatives) committees. The committee shall report the bill without substantive revision and with or without recommendation. The committee shall report the bill not later than the seventh day of session of that House after the date of receipt of that special message. If the committee fails to report the bill within that period, the committee shall be automatically discharged from consideration of the bill, and the bill shall be placed on the appropriate calendar.

"(C) A vote on final passage of the bill shall be taken in the Senate and the House of Representatives on or before the close of the 10th day of session of that House after the date of the introduction of the bill in that House. If the bill is passed, the Clerk of the Senate or the House of Representatives, as the case may be, shall cause the bill to be engrossed, certified, and transmitted to the other House within one calendar day of the day on which the bill is passed.

"(2)(A) During consideration under this subsection in the House of Representatives, any Member of the House of Representatives may move to strike any proposed cancellation of a budget item.

"(B) A motion in the House of Representatives to proceed to the consideration of a bill under this subsection shall be highly privileged and not debatable. An amendment to the motion shall not be in order, nor shall it be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

"(C) Debate in the House of Representatives on a bill under this subsection shall not exceed 4 hours, which shall be divided equally between those favoring and those opposing the bill. A motion further to limit debate shall not be debatable. It shall not be in order to move to recommit a bill under this subsection or to move to reconsider the vote by which the bill is agreed to or disagreed to.

"(D) Appeals from decisions of the Chair relating to the application of the Rules of

the House of Representatives to the procedure relating to a bill under this section shall be decided without debate.

"(E) Except to the extent specifically provided in this section, consideration of a bill under this section shall be governed by the Rules of the House of Representatives. It shall not be in order in the House of Representatives to consider any rescission bill introduced pursuant to the provisions of this section under a suspension of the rules or under a special rule.

"(3)(A) During consideration of a bill under this subsection in the Senate, any Member of the Senate may move to strike any proposed cancellation of a budget item.

"(B) It shall not be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

"(C) Debate in the Senate on a bill under this subsection, and all debatable motions and appeals in connection therewith (including debate pursuant to subparagraph (D)), shall not exceed 10 hours. The time shall be equally divided between, and controlled by, the majority leader and the minority leader or their designees.

"(D) Debate in the Senate on any debatable motion or appeal in connection with a bill under this subsection shall be limited to not more than 1 hour, to be equally divided between, and controlled by, the mover and the manager of the bill, except that in the event the manager of the bill is in favor of any such motion or appeal, the time in opposition thereto, shall be controlled by the minority leader or his designee. Such leaders, or either of them, may, from time under their control on the passage of a bill, allot additional time to any Senator during the consideration of any debatable motion or appeal.

"(E) A motion in the Senate to further limit debate on a bill under this subsection is not debatable. A motion to recommit a bill under this subsection is not in order.

"(F) If the Senate proceeds to consider a bill introduced in the House of Representatives under paragraph (1)(A), then any Senator may offer as an amendment the text of the companion bill introduced in the Senate under paragraph (1)(A) as amended if amended (under subparagraph (A)). Debate in the Senate on such bill introduced in the House of Representatives, and all debatable motions and appeals in connection therewith (including debate pursuant to subparagraph (D)), and any amendment offered under this subparagraph, shall not exceed 10 hours minus such times (if any) as Senators consumed or yielded back during consideration of the companion bill introduced in the Senate under paragraph (1)(A).

"(4) Debate in the House of Representatives or the Senate on the conference report on any bill considered under this section shall be limited to not more than 2 hours, which shall be divided equally between the majority leader and the minority leader. A motion further to limit debate is not debatable. A motion to recommit the conference report is not in order, and it is not in order to move to reconsider the vote by which the conference report is agreed to or disagreed to.

"(d) AMENDMENTS AND DIVISIONS PROHIBITED.—Except as otherwise provided by this section, no amendment to a bill considered under this section shall be in order in either the Senate or the House of Representatives. It shall not be in order to demand a division of the question in the House of Representatives (or in a Committee of the Whole). No motion to suspend the application of this subsection shall be in order in the House of Representatives, nor shall it be in order in the House of Representatives to suspend the application of this subsection by unanimous consent.

"(e) TEMPORARY PRESIDENTIAL AUTHORITY TO RESCIND.—At the same time as the President transmits to Congress a special message proposing to rescind budget authority, the President may direct that any budget authority proposed to be rescinded in that special message shall not be made available for obligation for a period not to exceed 45 calendar days from the date the President transmits the special message to Congress.

"(f) DEFINITIONS.—For purposes of this section—

"(1) the term 'appropriation Act' means any general or special appropriation Act, and any Act or joint resolution making supplemental, deficiency, or continuing appropriations;

"(2) the term 'direct spending' shall have the same meaning given such term in section 250(c)(8) of the Balanced Budget and Emergency Deficit Control Act of 1985;

"(3) the term 'budget item' means—

"(A) an amount, in whole or in part, of budget authority provided in an appropriation Act;

"(B) an amount of direct spending; or

"(C) a targeted tax benefit;

"(4) the term 'cancellation of a budget item' means—

"(A) the rescission of any budget authority provided in an appropriation Act;

"(B) the repeal of any amount of direct spending; or

"(C) the repeal of any targeted tax benefit; and

"(5) the term 'targeted tax benefit' means any provision which has the practical effect of providing a benefit in the form of a different treatment to a particular taxpayer or a limited class of taxpayers, whether or not such provision is limited by its terms to a particular taxpayer or a class of taxpayers. Such term does not include any benefit provided to a class of taxpayers distinguished on the basis of general demographic conditions such as income, number of dependents, or marital status.".

(b) EXERCISE OF RULEMAKING POWERS.—Section 904 of the Congressional Budget Act of 1974 (2 U.S.C. 621 note) is amended—

(1) in subsection (a), by striking "and 1017" and inserting "1012A, and 1017"; and

(2) in subsection (d), by striking "section 1017" and inserting "sections 1012A and 1017".

(c) CLERICAL AMENDMENTS.—The table of sections for subpart B of title X of the Congressional Budget and Impoundment Control Act of 1974 is amended by inserting after the item relating to section 1012 the following:

"Sec. 1012A. Expedited consideration of certain proposed rescissions and repeals of tax expenditures and direct spending.".

(d) EFFECTIVE PERIOD.—The amendments made by this Act shall—

(1) take effect on the date that is 2 days after the date of enactment of this Act;

(2) apply only to budget items provided in Acts enacted on or after the date of enactment of this Act; and

(3) cease to be effective on September 30, 2002.".

Mr. DOMENICI. Mr. President, before I suggest the absence of a quorum, let me ask Senator BYRD if he is getting close to being able to agree to a time limit.

Mr. BYRD. Yes, I am.

Mr. DOMENICI. Mr. President, we are in the process of restructuring this to accommodate what he has done. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

UNANIMOUS-CONSENT AGREEMENT

Mr. DOMENICI. Mr. President, I believe we are ready to enter into a unanimous-consent agreement. I am going to read it. Senator BYRD has seen it. Perhaps he has some suggestions, but let us get it on the RECORD right now.

I ask unanimous consent that during the consideration of the conference report on S. 4, the line-item veto bill, there be a total of 9 hours for debate on the conference report, with 4 hours under the control of Senator DOMENICI, or his designee, with the last hour of Senator DOMENICI's time under the control of Senators MCCAIN and COATS; further, the remaining 5 hours under the control of Senator BYRD; any motions be limited to 60 minutes equally divided and any amendments thereto be limited to 60 minutes equally divided, as well, with all time counting against the overall limitation for debate; and further, that following the expiration or yielding back of time and disposition of any motions, the Senate proceed to vote on the adoption of the conference report with no intervening action.

I further ask unanimous consent that all the time used for debate up to now on the Republican side relative to the conference report be deducted from the time allotted under the consent agreement.

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

Time is now controlled.

Mr. DOMENICI. I thank the Chair, and I thank Senator BYRD.

The PRESIDING OFFICER. Time is now controlled. Who yields time?

Mr. DOMENICI. Mr. President, parliamentary inquiry. How much time have we used on our side in favor of the bill?

The PRESIDING OFFICER. The majority has used 38 minutes.

Mr. DOMENICI. I thank the Chair. I yield the floor.

Mr. HATFIELD addressed the Chair.

Mr. BYRD. Mr. President, I yield 15 minutes of the time under my control to the distinguished senior Senator from Oregon, [Mr. HATFIELD].

The PRESIDING OFFICER. The Senator from Oregon.

Mr. HATFIELD. I thank the Senator from West Virginia for his yielding me time.

Mr. President, a very interesting experience occurred this morning at the Senate prayer breakfast. That is that former Senator Joseph Tydings from Maryland came to join us and some of the newer Senators sitting in our area, and we were informed about Senator Joe Tydings' father, Senator Millard Tydings, who represented the State of Maryland and had a very interesting political experience; and that was that he stood up, as a Democrat, to the effort on the part of President Roosevelt in 1937 to alter the structure of the Supreme Court, and that, as a result, President Roosevelt undertook a purge in the 1938 elections of those Senators who blocked his effort to change the structure of the Supreme Court which was in effect termed in those days "to pack the Court."

But he failed because the people of Maryland, as well as the people from Georgia, both returned those Senators that helped fight the packing of the Supreme Court—Democrats. They said, in effect, we support Mr. Roosevelt and the New Deal, but when he begins to tamper with the separation of powers and the checks and balances that our forefathers established in the Constitution, President Roosevelt has gone too far.

Mind you, at that time, Mr. President, there were about 19 Republicans sitting on this side of the aisle, out of the 96, and they had what they called the Cherokee strip because there were not enough seats for the Democrats to stay on that side of the aisle, and they took these back rows across this Senate and occupied those.

Senator Charles McNary of Oregon, with his little band of 19 Senators, with the assistance of the Democrats who would not support a Democratic President in packing the Supreme Court, held Mr. Roosevelt's effort and blocked it.

Mr. Roosevelt was not suggesting that we change the Supreme Court in terms of its rulings and its duties, "But just let me appoint one here and one there and one somewhere else when they get a certain age and they have not retired," because he was facing a hostile Supreme Court which was knocking down his legislation point by point when they found it to be unconstitutional.

Mr. President, this is the greatest effort to shift the balance of power to the White House that has happened since Franklin Roosevelt attempted to pack the Supreme Court. He is asking, "Oh, just give me a little veto here and a little veto there and a little veto somewhere else, and I select."

This is a concentration and transfer of power to the Chief Executive. I think it is contrary to sound constitutional practice. I am appalled that my colleagues on the Republican side should help by leading the effort to give more power to the White House, more power to the President of the United States. I suppose this is a generational gap. I grew up thinking only Franklin Roosevelt would ever be the President of the United States. And the Republican cry was, "He's leading us to a dictatorship," the concentration of power in the President's hands. The Republican campaign songs, campaign speeches in campaign after campaign, whether you were running for county sheriff or for Governor or for Senator, was to point to the fact that under the New Deal and President Roosevelt, they were concentrating power in the hands of the Chief Executive. And they were.

But here we are now, anxious to say, "Oh, please, Mr. President, take this new power. We don't have the ability to exercise the constitutional responsibility of creating and holding the purse strings."

That is what it is. Call it by any other name, it is still a transfer of power and an enhancement of power in the hands of the President. I think it is a sad commentary on the responsibility and the history and the constitutional duties of the U.S. Congress to say to the President, "We don't have the capability to exercise this, so we're going to dump it in your lap."

That was the story we talked about this morning with Senator Joe Tydings, because his father had the courage to stand firm as a Democrat against a Democratic President to stop this kind of imbalance that was being suggested by the President of the United States to add new members to the Supreme Court so he could have his total way. He controlled the Congress of the United States by extraordinary, extraordinary majorities. But it was the Supreme Court that got in his way. So he was going to change the structure of the Supreme Court so he could have more power.

Now, here is an interesting thing. Here is a Republican-led effort to give more power to a Democratic President. Maybe the election will change that in November, but once you transfer that power, no matter who is the President, you have transferred power to the other branch of Government.

One last little incident that I want to mention, and that is a few years ago Frank Church, a Democratic Senator from Idaho—Senator Church had been a strong supporter of President Johnson's Vietnam policy. The day came when he decided to join those of us who were opposing the Vietnam policy, and he got up over there—and I can remember how he made his speech, of stating his position now as an opponent of the Vietnam war. In that speech he quoted Walter Lippmann, who was a very renowned, very respected writer and had commented extensively on the issue of the Vietnam war.

So he quoted Walter Lippmann in his speech in saying, "I now stand, and I hate to say this to President Johnson, but I have to now take my position in opposition to the war policy."

Well, a week or so later Senator Church and Bethine, his wife, were down at the White House for a social function that President Johnson invited them to. As was the custom, they were going through the receiving line to pay their respects to President Johnson. You say different kinds of little remarks at that point to the President, very much a personal eyeball to eyeball. So Frank Church said to President Johnson, "You know, I have this Idaho project, and it's going to be coming down to the White House soon. I hope you'll help me on it." President Johnson looked him straight in the eye and said, "Why don't you go ask Walter Lippmann for it." "Why don't you go ask Walter Lippmann for it."

I do not have to draw a picture to see the linkage in the President's mind that you have decided not to support me on a war policy, well, I probably will be less than helpful to you on some kind of a project you have in Idaho. It invites all sorts of mischief. I can imagine the days when I stood very much in the minority on this Senate floor in opposing that Vietnam policy. I can very well imagine that I could have been given the same kind of treatment that he was extending to Frank Church, probably more likely because I was a Republican.

But let me say, there is not a single Senator in this body who could not become a target for that kind of political mischief exercised by a President when he wants your vote, when he needs your vote, when he, in effect, is demanding your vote. Then you stand there with your particular constituency when you have some funding of some kind in the Appropriations Committee, and he can just take that pen of his and, bop, just knock you out of the box; or he can say, "Now, I'll listen to your willingness to support me on this."

Likewise, it invites political mischief in this body, the Congress. They can load up a bill and say, "Well, the President now will have to veto that. He'll have to take that kind of political stance. We can embarrass him by forcing him to veto that out of the bill." I do not think we want to do that either.

I only wish that we would read our history, and remember that we came to this country to escape monarchies, dictators, czars, kaisers, and those powerful executives that ran everything in their governments. We deliberately set up three branches of government; we deliberately assigned different powers; at the same time, we had mixing of powers.

We are in the middle of an appropriation effort. There is not one way the President of the United States can force us to appropriate a dollar we do not want to appropriate. However, we

cannot appropriate a dollar without the President's approval or veto. That is the mixing of powers. He has legislative powers; we have executive powers. Consequently, we should not tinker with something that has worked very well for over 200 years in the separation of powers.

I want to say, I do not trust any President—I do not care whether he is Democrat or Republican—wanting to exercise all the power we want to give to him. Every person in this body that votes for this in the younger generations will live to see the day when it passes that they will regret that they bestowed this kind of power on the Chief Executive of the United States. It is contrary to our Republican doctrine. We want diffusion of power. We want the diffusion and the decentralization of power.

Yet the same Republicans that talk on the one hand about too much power in the Federal Government, we should give more power to local government or more power to the private sector, are now wanting to bestow an additional amount of power on the Chief Executive.

I yield the floor.

Mr. BYRD. Mr. President, I ask that the time that was consumed by Mr. HATFIELD be charged against the 5 hours under my control and not against the time on the motion.

The PRESIDING OFFICER. The Senator has that prerogative. The time will be charged that way.

Mr. STEVENS. Mr. President, I yield such time as I need. It will not be very long. I do want to say at the beginning that I am of the generation of the Senator from West Virginia and the Senator from Oregon, and have taken the positions they have stated in the past.

I am here today to explain why I support this bill.

Mr. DOMENICI. Will the Senator yield?

Mr. STEVENS. I yield.

Mr. DOMENICI. Whatever time is consumed by the Senator, I ask that it be charged against the bill and not against the amendment.

The PRESIDING OFFICER. The Senator has that prerogative. It will be charged that way.

Mr. STEVENS. Mr. President, I was pleased to be able to file this conference report on S. 4, which is called the Line-Item Veto Act. If enacted, I believe it will be the most significant delegation of authority by the Congress to the President since the Constitution was ratified in 1789.

What the Senator from West Virginia and the Senator from Oregon has said is true. It is a major, major, change in the policy of the Congress toward the executive branch. It is a temporary delegation of authority under this bill. This delegation is necessary and appropriate to help reduce the current Federal budget deficit, a deficit that I believe threatens to destroy the future well-being of our great Nation.

It is not without a lot of soul searching that I made the change in position that I have made on this bill. Mr. President, 43 Governors around the country have some form of line-item veto authority, including my own Governor in Alaska. As Governor of California, Ronald Reagan used the line-item veto authority to effectively reduce wasteful spending.

I have opposed this bill in the past because it did not cover the largest culprits of wasteful spending: entitlements and tax breaks for special interests. Together, they account for hundreds of billions of dollars each year. I opposed this bill because I did not think that we were committed to a balanced budget concept. This bill goes together with the balanced budget amendment and the significant steps that the Congress took in the Gramm-Rudman-Hollings procedures. In my judgment, this bill will enable the President to assist in carrying out the original intention of Gramm-Rudman-Hollings. At my request, the bill has been expanded and broadened to cover not only appropriations for specific projects but tax breaks and entitlements as well.

Today, Congress has the power to cut programs the President proposes that we believe are unnecessary, but unless the President vetoes an entire appropriations bill, he is powerless to single out a specific project he opposes. Likewise, unless he vetoes an entire tax bill, he cannot eliminate an unnecessary tax break designed to benefit only a narrow, special interest. This bill gives the President those powers temporarily.

In his annual State of the Union Address nearly 15 years ago, President Reagan came before us and asked us for the same power that Governors have, the power the Governor of Alaska has, and that he enjoyed as the Governor of California. Today, we are giving a President what President Reagan requested, but it is enhanced, Mr. President. It is more than President Reagan requested. It has been a long time coming, and I am pleased and hope that we will fulfill his dream. I want everyone to understand it is much, much, greater than what President Reagan asked for.

I have supported this conference report because it includes the core concept that I insisted on when the Senate considered S. 4 a year ago. That was that the line-item authority would apply to all three areas of Federal spending. Until then, as I said before, the proposals for a line-item veto hit only appropriations and left those large culprits, entitlements and target tax breaks, untouched.

The conference report gives to the President the specific authority to cancel dollar amounts of discretionary budget authority, items of new direct spending, and limited tax benefits in any law that is enacted after the effective date. This means the President will be able to line out specific items in all three areas of Federal spending, whether it be appropriations, entitlements, or limited tax breaks.

The cancellation would be effective immediately and the money that is not spent goes to deficit reduction. It is part of the budget process, in my opinion. Money that is saved because of the exercise of the veto in this bill cannot be spent for any other purpose by the President or by Congress.

Now, much has been said in the press about the need for the line-item veto to control wasteful spending through the appropriations process. We have heard from the former chair of the Appropriations Committee and the current chairman of the Appropriations Committee. I still have hopes and dreams that I may be chair of the Appropriations Committee.

Many people wonder why I have changed my mind at this time. I think that some Members here seem to miss the fact that the discretionary appropriations account only for 35 percent—not even 35 percent, but approximately 35 percent—of Federal spending. The remainder of Federal spending is mandatory, in the form of entitlements, tax breaks, interest on the national debt, items we cannot control. There is no figure available for the amount of revenue that is lost to the Government through these targeted tax breaks, what the conference report now calls limited tax benefits.

If the Balanced Budget Act that Congress sent to the President had not been vetoed, by fiscal year 2002 discretionary appropriations would account only for 26 percent of Federal spending, a decrease of 9 percent even without the line-item veto. Let me repeat that: Congress agreed to a bill that the President vetoed that would have reduced the moneys covered by the appropriations process within a 7-year-period by 9 percent. The Congress already vetoed the prospect of an increase to the extent of 9 percent, Mr. President. By contrast, entitlements under the balanced budget bill that we passed and the President vetoed would have grown from 55 percent to 60 percent of Federal spending. The increase would continue. That was an increase of 5 percent in 7 years, with interest on the national debt accounting for the balance of Federal expenditures.

To put it another way, Mr. President, in 1980 the Defense Department accounted for 23 percent of Federal spending while the Social Security Administration accounted for 19 percent, and the Department of Health and Human Services 10 percent of total Federal spending. Seventeen years later, the Department of Defense will get 17 percent; Social Security, 25 percent; Health and Human Services, 22

percent. In other words, the Department of Defense continues to go down while Social Security and Health and Human Services continues to go up.

Defense spending is all discretionary. It would be subject to the line-item veto under the original concept. The other two agencies that handle primarily entitlement programs would have been immune under the original line item veto concept.

This conference report allows the President to cancel new direct spending, which means any provision contained in nonappropriations laws which increase Federal spending above the current baseline. By allowing the President to cancel increases in existing entitlement programs, or the creation of new ones, the conference report provides the opportunity to control the explosive growth in mandatory spending. I basically support this bill because it now will give us a tool to require the President to help us control the growth in nondiscretionary spending.

Now, I think that ought to be very clear. In the area of taxes, the conference report does not go as far as I would have liked. But it was the best that we could get the conferees to agree to. Under our agreement, the President could cancel any limited tax benefit in a law under one of two conditions:

First, if the law contains a list of specific provisions, identified by the Joint Committee on Taxation as meeting the definition of a limited tax benefit in the conference report before the Senate now, then the President may cancel any provision so identified.

Second, if the law does not contain such a list prepared by the Joint Tax Committee, then the President may cancel any provision that meets the definition, in his opinion, of the limited tax benefit contained in this conference report. As I mentioned earlier, Mr. President, there is no ready list of revenue that has been lost to the Federal Government through targeted tax benefits. However, I believe it continues to run into hundreds of billions of dollars.

In the analytical perspectives that accompanied the President's 1997 budget, there is a table on pages 86 and 87 that I call to the Senate's attention. This lists the revenue that will be lost from major tax breaks of the past. The largest is $70 billion in fiscal year 1997 for the exclusion of employer contributions to medical insurance.

Over fiscal years 1997 to 2001, that exemption will cost the Government $423 billion. Let me repeat that in case anyone did not get that. In the period of time between 1997 and 2001, in the exemption that is already in one of the tax bills that exempts employer contributions to medical insurance, we will lose revenues of $423 billion. That is 75 percent of the entire discretionary budget that we are working on now in the Appropriations Committee.

The smallest tax break listed in the President's addendum is a special alternative tax on small property and casualty insurance companies. That provision will cost the Government, according to the President's statement, $25 million between 1997 and 2001.

It is impossible to tell from the table whether any of the provisions listed would in fact meet the definition of limited tax benefits under the conference report. I urge the Senate to remember that. It may well be that, although we are starting toward an attempt to give the President the right to eliminate limited tax breaks, we may have so defined limited tax breaks that they will never be touchable by the veto pen. But I think it illustrates my point that appropriations are not now, nor will they be in the future, totally responsible for the current Federal budget deficit. They are a part of it. They are a part of it, but the major part of it is the entitlement spending and the special tax breaks that account for so much of the problem.

In the case of appropriations, the President may cancel any dollar amount identified in an appropriations bill itself, or in the accompanying statement of managers or committee reports.

In addition, if an authorizing law has the effect of requiring the expenditure of funds provided in appropriations law for a particular program or project, the President may also cancel the dollar amount specified in the authorization law. I am not sure how many Senators realize that. But this is a very, very broad power we are delegating to the President of the United States.

The delegation is carefully structured in order to precisely define the President's authority.

In order to increase the President's discretion to cancel dollar amounts, the conferees agreed to allow the President to use the statement of managers or the governing committee report to identify those dollar amounts.

However, in order to prevent disagreements between the President and Congress over the dollar amount that can be canceled, the conferees specifically limited the President's authority to the entire dollar amount specified by Congress in the particular document he references—either the law itself or an accompanying report.

In addition, the President is required to cancel the entire dollar amount and may not cancel part of that dollar amount.

This limitation was included in order to ensure that the line item veto authority is not used to change policies adopted by the Congress that deals with appropriations or increases in tax benefits or entitlements. The line item authority cannot, for example, be used to reduce the amount appropriated for B-2 bombers so that the number of the bombers has changed. He must delete the entire amount to effect a change in policy.

Likewise, the conferees made clear that the cancellation authority does not apply to any condition, limitation, or restriction on the expenditure of funds or activities involving expenditure of funds.

This means, for example, that the President cannot cancel a prohibition on the expenditure of funds to implement a particular law or regulation.

The statement of managers before the Senate contains a number of specific examples to illustrate the conferees' intent with respect to those items the President may cancel in appropriations bills, and I want to incorporate those in my remarks at the conclusion.

I ask unanimous consent that they be printed following my remarks.

The PRESIDING OFFICER (Mr. LOTT). Without objection, it is so ordered.

(See exhibit 1.)

Mr. STEVENS. Mr. President, as the Senator from New Mexico, PETE DOMENICI, said earlier today, this has been a difficult conference. Senator DOMENICI and his staff worked tirelessly on this conference report and deserve much of the credit for it.

Let me review just briefly some of the differences that had to be resolved. In the House bill, there was an enhanced rescissions approach, while the Senate bill that went to conference used separate enrollment.

The House bill applied only to appropriations and targeted taxes, while the Senate bill applied to appropriations, any tax that favored any one group, and new entitlement programs as well.

The House bill made the President's line item veto of a program effective after a congressional review period, while the Senate used a constitutional veto that was effective immediately.

The Senate bill contained a mandatory lockbox for deficit reduction. The House bill did not.

The Senate bill contained a sunset, and the House bill did not.

The list can go on and on, but foremost among all of these issues were real questions about just what it was that we were delegating to the President, and if that delegation would be found constitutional.

After many long days and nights, and not a few testy meetings—and I must say, these conferences were the most acrimonious I have faced in 28 years—I believe that we have taken the best elements of both bills and created something that will work as Congress intends. I think it may be too narrow, rather than too broad, before we are through.

More importantly, I think we have a clear delegation of authority to the President for a specific purpose, and it

is for the purpose of deficit reduction. That is what will pass constitutional muster, and I urge Members to remember that.

This is a bill for deficit reduction that goes hand-in-hand with the concept of a balanced budget bill, a bill to require the elimination of a deficit. It is a mechanism to assist in congressional discipline to ensure that the Congress and the executive branch exercise the discipline that is necessary to bring about an elimination of the deficit that so plagues our future. It is not something that is a permanent change in constitutional power. If it is to be continued, that is for someone who comes to this body after most of us will have left. But, as a practical matter, I think it is a step that must be taken if we are to demonstrate our complete commitment to the concept of eliminating a deficit and bringing about a balanced budget.

I want to congratulate the members of the conference. In particular, I want to point to the chairman of the Budget Committee, who was a cochairman of the Senate portion of the conference, and I point to Senators MCCAIN and COATS, who brought the original concept to the floor, and Chairmen CLINGER and SOLOMON on the House side. Their hard work helped to bring this bill together and bring it before the two bodies now.

We are all indebted to our majority leader, Senator DOLE. He really held our noses—and sometimes other things—to the grindstone.

I thank the current occupant of the chair, Senator LOTT, for his role as the assistant majority leader.

Mr. President, this bill is really a significant bill. Anyone who thinks it is something that should be passed over lightly is wrong. It is a major change in the balance of Government power. It is really a check on the check of the checks and balances, as far as I am concerned.

We are indebted to the staff who worked out many of the problems which we encountered with this bill. We would point them in the general direction, and they came back with language and concepts that would fulfill our goal.

Earl Comstock, who is here with me now, on my personal staff; Christine Ciccone, who helped from the Governmental Affairs Committee; Austin Smythe, Bill Hoagland, Beth Felder, and Jennifer Smith on the Budget Committee; Mark Busey with Senator MCCAIN; Sharon Soderstrom and Megan Gilly with Senator COATS; John Schall with Senator DOLE; Monty Tripp with Chairman CLINGER; Eric Pelliter with Chairman SOLOMON; and Wendy Selig with Congressman GOSS.

We got to know them pretty well, Mr. President. Unfortunately, they got to know us too well.

I think this is truly a momentous piece of legislation. I regret deeply that I disagree with my good friend from West Virginia and my chairman of the Appropriations Committee now. In my judgment, if it is my watch between the years 1997 and 2000, I intend to see to it that the Appropriations Committee heeds this warning. If we take action which might lead to increases in the deficit, if we allow funds to be spent which are not necessary, I hope the President will use this authority. If he uses his pen, as my good friend from West Virginia suggests, in a political fashion—if any President does that, he or she—during this period we are dealing with, then I think this is a powerful tool that will go away. The Congress will not allow the executive branch to have a power such as this to be exercised frivolously or politically.

This is a change in the Government structure we are suggesting. We are suggesting that the President hold the pen which allows the Congress to carry out the discipline that it imposed on itself. Gramm-Rudman-Hollings started this, Mr. President, and this bill that is before us today will continue the mechanisms of discipline to bring about elimination of the deficit. I pray to the good Lord that we will succeed this time.

Thank you, Mr. President.

I have asked that one page from this report be printed after my remarks. I call the Senate's attention to it. I do hope every Senator will read it. It is on page 20, section 1021, line-item veto authority.

That is what this bill is, not what it is not, but that is what it is. I think Senators should realize that.

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

(See exhibit 2.)

EXHIBIT 1

EXCERPT FROM STATEMENT OF MANAGERS

(7) Dollar Amount of Discretionary Budget Authority. The term "dollar amount of discretionary budget authority" is carefully defined in section 1026(7) in order to ensure that the President's authority to cancel discretionary spending in appropriation laws is clearly delineated. The conference report delegates the authority to the President to cancel in whole any dollar amount specified in an appropriation law.

In addition, to increase the President's discretion, the conference report allows the President to cancel a dollar amount of budget authority provided in an appropriation law by specific amounts identified by the Congress in the statement of managers, the governing committee report, or other law. By limiting the delegation of authority, the conferees intend to preclude arguments between the Executive and Legislative Branches and to ensure that the delegation is not overbroad or vague. As is described in further detail below, the conferees have sought to provide the President the ability to rescind entire dollar amounts, even if not specified as a dollar amount in the law itself, so long as the dollar amount can be clearly identified and is in an indivisible whole with which Congress has previously agreed.

The conferees note that the definition specifically excludes certain types of budget authority that are addressed by other provisions in part C of title X, as well as any restriction, condition, or limitation that Congress places on the expenditure of budget authority or activities involving such expenditure. The exclusion of restrictions, conditions, or limitations is included to make clear that the President may not use the authority delegated in section 1021(a) to cancel anything other than a specific dollar amount of budget authority.

The cancellation authority cannot be used to change, alter, modify, or terminate any policy included by Congress, other than by rescinding a dollar amount. Obviously, if the Congress has included a restriction in the law that prohibits the expenditure of budget authority for any activity, there is no dollar amount to be rescinded by the President, nor would any money be saved for use in reducing the federal budget deficit, which is a requirement for the use of the authority provided under section 1021(a).

As described in subparagraph (A)(i), the President many cancel the entire dollar amount of budget authority specified in an appropriation law. The term "entire" means just that; the President may rescind, or "line out" the dollar amount of budget authority specified in the law, so that the dollar amount provided in the law becomes zero after the cancellation. For example, in Public Law 104–37, the Agriculture Appropriations Act for Fiscal Year 1996, $49,486,000 was provided in the law for special grants for agriculture research. Using the authority granted under section 1021(a)(1), as defined under section 1026(7)(A)(i), the President could cancel only the entire $49,486,000.

Further, again under subparagraph (A)(i), if the appropriation law does not include a specific dollar amount, but does include a specific proviso that requires the allocation of a specific dollar amount, then the President may rescind the entire dollar amount that is required by the proviso. A fictitious example of what the conferees intend in this case follows:

An appropriation law includes a provision that states "for the operation and maintenance of the Army, $1,400,000,000, provided Fort Fictitious is maintained at Fiscal Year 1995 levels,". In this instance, the President could ascertain what the operation of Fort Fictitious cost in FY 1995, and could rescind that entire amount from the $1.4 billion provided for Army O&M. The conferees note that the President would have to take the entire dollar amount required to operate Fort Fictitious in FY 1995, and could not simply take part of that amount. It is intended to be an all or nothing decision.

As a further specific illustration, the conferees note that the General Construction Account in Public Law 104–46, the Energy and Water Development Appropriations Act, 1996, states:

"$804,573,000 to remain available until expended, of which such sums as necessary pursuant to Public Law 99–662 shall be derived from the Inland Waterways Trust Fund, for one-half of the costs of construction and rehabilitation of inland waterways projects, including rehabilitation costs for the Lock and Dam 25, Mississippi River, Illinois and Missouri . . . "

In this example, the President could cancel the entire $804,573,000 or could cancel an amount equal to the entire dollar amount that would be required to fund the rehabilitation costs of the Lock and Dam 25 project, noting in his message all information as required by section 1022.

In subparagraph (A)(11) the President is given the authority to rescind the entire dollar amount represented separately in any

table, chart, or explanatory text included in the statement of managers or the governing committee report that accompanies an appropriation law. The term "governing committee report" is included to address the fact that the current practice in preparing the statement of managers for a conference report on an appropriation law is to simply address changes that were made in the statutory language and the accompanying committee reports, thus leaving intact and incorporating by reference tables, charts, and explanatory text in one of the two committee reports that were not modified by the conference.

An example of the authority described in subparagraph (A)(ii) is found in the Conference Report accompanying the FY 1996 Military Construction Appropriations Act (Public Law 104-32). The statement of managers accompanying the conference report contains a chart denoting allocations of dollars to various installations and projects. On page 38 there is an allocation of $10,400,000 for a physical fitness center at the Bremerton Puget Sound Naval Shipyard. Except for this chart there is no other reference to the physical fitness center in either the statute or narrative explanation in the Conference Report. under the authority provided by the definition in subparagraph (A)(ii), the President could cancel the entire $10,400,000 provided for the physical fitness center, but could not cancel only a part of that amount.

The inclusion of subparagraph (A)(ii) is not intended to give increased legal weight or authority to documents that accompany the law that is enacted. Rather, as an exercise of its authority to specify the terms of the delegation to the President, Congress is choosing to use those documents as a means of allowing the President increased discretion to reduce dollar amounts of discretionary budget authority provided in an appropriation law. In order to ensure that the delegated authority is clear, the conferees have limited that authority to dollar amounts identified by Congress in the appropriation law, the accompanying statement of managers, the governing committee report or other law. Since Congress often provides detailed identification of dollar amounts in the accompanying documents, they represent an agreed upon set of dollar amounts that the President may rescind in their entirety.

Subparagraph (A)(iii) has been included by the conferees to address a specific circumstance where neither the appropriation law nor the accompanying statement of managers or committee reports include any itemization of a dollar amount provided in that appropriation law. However, another law mandates that some portion of the dollar amount provided in the appropriation law be allocated to a specific program, project, or activity that can be quantified as a specific dollar amount. In this case, the President could rescind the entire dollar amount required to be allocated by the other law, since that dollar amount has been identified by Congress as a specific dollar amount that must be spent. As is the case with the earlier provisions, the President could not rescind part of the dollar amount mandated by the other law. It is an all or nothing decision. Likewise, the President could not use the cancellation authority to change, alter, or modify in any what the other law.

An example of the authority provided in subparagraph (A)(iii) is found in section 132 of Public Law 104-106, the National Defense Authorization Act for Fiscal Year 1996. Section 132 states that "Of the amounts appropriated for Fiscal Year 1996 in the National Defense Sealift Fund, $50,000,000 shall be available only for the Director of the Advanced Research Projects Agency for advanced submarine technology activities." In this example the President could "look through" the appropriation law to the authorization law that mandates that $50 million is available only for advanced submarine technology activities, and could cancel the entire $50 million.

However, had the appropriation law contained a provision that contradicted or otherwise made the mandate in the authorization law ineffective with respect to the allocation of the National Sealift Fund, then the President would not be able to use the amount in the authorization law as the basis for the cancellation of a dollar amount of discretionary budget authority. As with appropriations laws, the President cannot use the authority in subparagraph (A)(iii) to change, alter, or modify any provision of the authorization law.

Subparagraphs (A)(iv) and (A)(v) are variations on the authority granted in clauses (i) through (iii), and are intended to address the circumstance where Congress does not specify in the appropriation law, the accompanying documents, or other law a specific dollar amount, choosing instead to require the purchase of a particular quantity of goods. Subparagraphs (A)(iv) and (A)(v) allow the President to rescind the entire dollar amount of discretionary budget authority represented by the quantity specified in the law or documents. To determine the specific dollar amount, the President is required to multiply the estimated procurement cost by the total quantity of items specified in the law or documents. The President may then rescind the entire dollar amount represented by the product of those two figures. The conferees expect that the President will use the best available information, as represented by the President's budget submission or binding contract documents, to estimate the procurement cost.

The conferees have included the following example in order to more clearly explain the definition of dollar amount of discretionary budget authority as defined by section 1026(7). These examples are used solely for illustrative purposes and the conferees are in no way commenting on the merit of any of these programs. The conferees do not intend for these examples to represent all instances where cancellation authority may be used.

The FY 1996 Agriculture Appropriations Act (Public Law 104-37) appropriates $49,846,000 in special grants for agriculture research. The Conference Report accompanying this law contains a table that allocates the $49,846,000 total into lesser dollar amounts of all which correspond to individual research programs. This table, for example, contains a $3,758,000 allocation for "Wood Utilization Research (OR, MS, MN, ME, MI)".

Using the definition in section 1026(7)(A) (i) and (ii), the President could cancel either the entire $49,846,000 specified in the statute or the entire $3,758,000 described in the chart in the Conference Report. However, because the Congress did not break down the allocations for each state associated with this project the President would not have the authority to take a portion of the $3,758,000 allocated to wood utilization research.

The conferees intend that cancellation authority only applies to whole items. If an item (or project) occurs in more than one state, and the law or a report that accompanies an appropriation law lists an item (project) and then lists a series of states, it is the entire item that must be canceled.

In the example listed above, "Wood Utilization Research" appears in the report as: "Wood Utilization Research (OR, MS, NC, MN, ME, MI)."

The conferees believe it is important to note that this line in the report must be canceled in its entirety. The President's cancellation authority is strictly limited. The President has no authority in this example to cancel wood utilization research for Michigan only.

To further illustrate this example, the conferees submit the following examples that corresponds to a chart contained in the same conference report: "Aflatoxin (IL), 133,000; Human Nutrition (AR), 425,000; Human Nutrition (IA), 473,000; Wool Research (TX, MT, WY) 212,000."

In this case, the President may cancel Aflatoxin (IL), Human Nutrition (AR), Human Nutrition (IA), and/or Wool Research (TX, MT, WY). Although there are two human nutrition research projects listed in two different states, because of the manner in which they are listed, each project may be separately canceled. Again, the President may only cancel the entire wool research program and may not cancel only wool research in Texas.

Section 1026(7)(B) describes what is not included in the definition of "dollar amount of discretionary budget authority." Subparagraphs (B)(i) and (B)(ii) exclude items of new direct spending, for which cancellation authority is provided under other sections of part C of title X. Subparagraph (B)(iii) excludes from the definition any budget authority canceled or rescinded in an appropriation law in order to ensure that those cancellations or rescissions cannot be undone by the President using the cancellation authority.

As described earlier, subparagraph (B)(iv) excludes from the definition any restriction, condition, or limitation in an appropriation law or the accompanying statement of managers or governing committee report on the expenditure of budget authority or on activities involving such expenditure. The following two examples illustrate the conferees' intent that the President cannot use the cancellation authority to alter the Congressional policies included in these restrictions, conditions, or limitations.

The Labor, Health and Human Services and Education and Related Agencies Appropriations Act, H.R. 1217, as amended by the Senate Appropriations Committee contained the following section:

"SEC. 103. No amount of funds appropriated in this Act for fiscal year 1996 may be used to implement, administer, or enforce any executive order, or other rule or order, that prohibits Federal contracts with, or requires that debarment of, or imposes other sanction on, a contractor on the basis that such contractor or organizational unit thereof permanently replaced lawfully striking workers."

The President's cancellation authority only applies to entire dollar amounts. The above example of "fencing language" is a limitation and contains no dollar amount. Therefore, the President has no authority to alter or cancel this statement of Congressional policy.

If a limitation or condition on spending—"fencing language"—is not written as a separate numbered or unnumbered paragraph, but instead is written as a proviso to an appropriated amount, the President still has no power to cancel the proviso.

The Energy and Water Development Appropriations Act, 1996, (Public Law 104-46), Title II, Department of the Interior, General Administrative Expenses, states:

"For necessary expenses of general administration and related functions in the office of the Commissioner, the Denver office, and offices in the five regions of the Bureau of Reclamation, $48,150,000, of which $1,400,000 shall remain available until expended, the total amount to be derived from the reclamation fund and to be nonreimbursable pursuant to the Act of April 19, 1945 (43 U.S.C. 377); *Provided*, that no part of any other appropriation in this Act shall be available for activities or functions budgeted for the current fiscal year as general administrative expenses.

Using this example, the President may cancel $48,150,000 or the $1,400,000 noted, but may not cancel or alter in any way the proviso restricting the use of other appropriated funds contained in this Act.

The conference report also allows the President to cancel the entire amount of budget authority required to be allocated by a specific proviso in an appropriation law for which a specific dollar figure was not included. The conferees recognize that from time to time, budget authority may be mandated to be spent on a specific program or project without a specific dollar amount being listed. However, in order to comply with the proviso, the President would have to expend appropriated funds.

EXHIBIT 2

Sec. 1021. Line item veto authority

Section 1021(a) permits the President to cancel in whole any dollar amount of discretionary budget authority, item of new direct spending, or limited tax benefit contained in any bill or joint resolution that has been signed into law pursuant to Article I, section 7, of the Constitution of the United States. The cancellation may be made only if the President determines such cancellation will reduce the federal budget deficit and will not impair any essential government function or harm the national interest. In addition the President must make any cancellations within five days of the date of enactment of the law from which the cancellations are made, and must notify the Congress by transmittal of a special message within that time.

The conferees specifically include the requirement that a bill or joint resolution must have been signed into law in order to clarify that the cancellation authority only becomes effective after the President has exercised the constitutional authority to enact legislation in its entirety. This requirement ensures that the President affirmatively demonstrates support for the underlying legislation from which specific cancellations are then permitted.

The term "cancel" was specifically chosen, and is carefully defined in section 1026. The conferees intend that the President may use the cancellation authority to surgically terminate federal budget obligations. The cancellation authority is specifically limited to any entire dollar amount of discretionary budget authority, item of new direct spending, or limited tax benefit. The cancellation authority does not permit the President to rewrite the underlying law, nor to change any provision of that law. The President may only terminate the obligation of the Federal Government to spend certain sums of money through a specific appropriation or mandatory payment, or the obligation to forego the collection of revenue otherwise due to the Federal Government in the absence of a limited tax benefit.

Likewise, the terms "dollar amount of discretionary budget authority," "item of new direct spending," and "limited tax benefit" have been carefully defined in order to make clear that the President may only cancel the entire dollar amount, the specific legal obligation to pay, or the specific tax benefit. "Fencing language" may not be canceled by the President under this authority. This means that the President cannot use this authority to modify or alter any aspect of the underlying law, including any restriction, limitation or condition on the expenditure of budget authority, or any other requirement of the law.

The conferees intend that, even once the federal obligation to expend a dollar amount or provide a benefit is canceled, all other operative provisions of the underlying law will remain in effect. If the President desires a broader result, then the President must either ask Congress to modify the law or exercise the President's constitutional power to veto the legislation in its entirety.

The lockbox provision of the conference report has also been included to maintain a system of checks and balances in the President's use of the cancellation authority. Any credit for money not spent, or for revenue foregone, is dedicated to deficit reduction through the operation of the lockbox mechanism. This ensures that the President does not simply cancel a particular dollar amount of discretionary budget authority, item of new direct spending, or limited tax benefit in order to increase spending in other areas.

Section 1021(b) requires the President to consider legislative history and information referenced in law in identifying cancellations. It also requires that the President use the definitions in section 1026, and provides that the President use any sources specified in the law or the best available information.

Section 1021(c) states that the President's cancellation authority shall not apply to a disapproval bill, as defined in section 1026. The provision is intended to prevent an endless loop of cancellations.

Mr. BYRD. Mr. President, will the Senator yield for one moment?

Mr. STEVENS. Yes.

Mr. BYRD. Mr. President, I take this occasion to congratulate the distinguished Senator from Alaska [Mr. STEVENS], and the other Members of the Senate who were conferees.

As I sat and listened to him as he has outlined the changes that were brought within the bill during the meeting of the conference, I commend our Senate conferees. I think they brought about several improvements over the House position. I thank them for that.

Mr. STEVENS. Mr. President, I am honored by those comments.

I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. McCAIN. Mr. President, I thank the Senator from Alaska for his gracious remarks, and all of those involved in this, including the occupant of the chair, the Senator from Mississippi.

There is very little doubt that the Senator from Alaska had the most difficult time with this legislation. That is understandable given the fact that he will play a key and vital role in the upcoming appropriations process which affects us.

So we are very grateful, not only for his gracious remarks, but for his very cooperative participation in this process.

Mr. President, in behalf of this side, I yield 10 minutes to the Senator from Texas, who also played a very important role from time to time during our conference bringing a degree of insight, particularly helping us understand the difference between enhanced rescissions and real line-item vetoes.

Mr. President, I yield 10 minutes to the Senator from Texas.

The PRESIDING OFFICER. The Senator from Texas is recognized for 10 minutes.

Mr. GRAMM. Mr. President, I believe this bill represents a significant break with the past. I think it does in a very real sense represent the changing of the guard. Might I say that I think it is long overdue.

The last time we balanced the Federal budget was in 1969 when Richard Nixon was President, and it happened only because of a big tax increase that occurred in 1968—an income surtax. It lasted only for 1 year, and then it was gone. The last time we balanced the budget 2 years in a row where the budget was balanced by fiscal restraint by doing what every family and every business in America has to do every year was in the middle of the 1950's when Dwight David Eisenhower was President of the United States.

In other words, we are here today changing the fundamental powers of the Presidency as they relate to the Congress and altering our system of the distribution of that power because for 40 years we have not been able or willing to say "no." And because we have not said "no," because we have said "yes" to virtually any organized special interest group with a letterhead, that has meant that families have had to say "no" on a constant basis. The problem is we have said "yes" to spending money when "yes" was the wrong answer, forcing families to say "no" to investing in their future and the future of this country, when "no" was the wrong answer. We are here today to try to change that.

What does the line-item veto do, and what does it not do? The line-item veto allows the President to go inside an appropriations bill and to eliminate a program, a project, or an activity. He does not have the ability to change it. He can either say "yes" or "no" to the whole thing and strike it out, and then alter the budget total at the top of the page.

This will allow the President to exercise leadership in controlling spending and to impose priorities. But, if the Congress does not agree and if there is strong disagreement, the President can be overridden. But what it does, no doubt about it—and the distinguished Senator from West Virginia is right—it changes the balance of power between

the Congress and the President in one fundamental way: It gives the President enhanced power to say "no" to spending. It does not give him the ability to spend more money. It does not give him the ability to change priorities by partially altering spending figures. It enhances his ability to say "no."

It seems to me, Mr. President, after 40 years of living proof every day that our Government cannot say "no" when "no" is clearly the right answer, the time has come to change the system. This is a fundamental reform, there is no doubt about it.

If you had a President who was honest-to-God willing to get out a pen and to veto, he could change America. And he could change it very, very quickly. Let us hope that the Lord will give us such a person.

What is the problem with which we are trying to deal? The problem is not just this abstract idea of deficits. The problem is that in the mid-1960's, we fundamentally changed America without America ever knowing it, without an election ever being held on this subject, and maybe without Members of Congress knowing it.

What happened is that prior to 1965, in this whole century, excluding the years of the Great Depression, our economy had performed very well. We had experienced an economic growth rate of almost 3.5 percent. From 1950 to 1965, our economy grew at over 4 percent a year. What that meant was new jobs, new growth, new opportunity. It created a situation through the whole of the 20th century, with the exception of 4 years during the Great Depression, where in almost every family in America parents did better than their parents, and they could be almost certain that their children were going to do better than they had done.

Beginning in 1965, we traded that in for a Government growing at an average of 9 percent each and every year since. What has happened is this year the economy is growing at 1.7 percent. The average family's take-home, after-tax pay today is lower than it was in 1992. For the whole decade of the 1970's, the average working American family was worse off at the end of the decade than they were at the beginning because the economy did not perform, because we spent the seed corn of our economy here in Congress, and the President in signing appropriations bills had no ability to go inside those bills and strike items.

So what we are doing today is trying to change a system that is broken. There are clearly people who love the old ways, who believe that Congress ought to have this ability to fill up bills with little add-ons that the President would like to veto but cannot veto without vetoing the whole bill. But I think after 40 years of failure, after 40 years of mortgaging the future of the country, after 40 years of lowering the potential living standard of our people, we have an opportunity if we would change the way Government does its business to guarantee that our grandchildren will be twice as well off as they will be if you continue business as usual.

That is the ability to affect the lives of everybody in this country and everybody on this planet. It is the ability to give people the opportunity to escape poverty and fulfill their dreams. That cannot happen when Government is borrowing 50 cents out of every dollar. So we are here today to change it. This is going to be a fundamental, sweeping change in Government. My only disappointment is that it is not permanent. This is grandfathered, and what it will mean is that if we do have a President who actually uses it, my guess is we will not restore it to them once this expires. I had hoped this would be permanent law, but this is a very, very important bill. I commend everybody who has been involved in it.

Let me conclude by just thanking some people individually.

First of all, I thank TED STEVENS, who had very real hesitation about this bill. I thank PETE DOMENICI. Both of these men had real reservations when we started. This has meant a compromise for them, and I think, quite frankly, we have a better bill right now than we did when we started this process. I think they are largely responsible for it. But only because of their support will this bill become the law of the land.

I thank DAN COATS and JOHN MCCAIN for their leadership. This has been a battle which has really raged for 8 years. Many people have despaired of it ever happening. But it did happen because we had people who cared strongly about it. I think it reveals the basic lesson of democracy, and that is intensity counts. If you have people who care very strongly about something and they do not give up, ultimately they succeed.

I also thank the Presiding Officer, our distinguished assistant majority leader, for his good counsel in bringing people together and helping to push this matter to a final conclusion.

It is interesting in that I think this is an old issue which has been debated a long time and as a result there is not the clamor which normally would surround a bill that is as important and momentous as this bill is, and that is a disappointment I am sure both to those of us who are for it and those who are against it in terms of its profound impact on America. There are very few things we have done in the last 4 or 5 Congresses that have a larger potential impact than the passage of this bill.

I congratulate everybody who has been involved. I believe we are not only making history today, but we are making good history. That is something which does not happen very often. This is one more tool the President has, if the President wants to do something about the deficit. If we have a President who really wants to do it, all that President has to do is get one-third plus one in one House of Congress, sharpen up his pencil, and he is in business. I believe it is going to take strong leadership.

I wish to conclude by remembering the words of Ronald Reagan when he asked for this power and said, "Give me the line-item veto and let me take the heat." I was always disappointed we did not do that, but we are going to give whoever is President in January this power. We will see if they can take the heat.

I thank the Chair and I yield the floor.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. Who seeks recognition? The Senator from West Virginia.

Mr. BYRD. Mr. President, I shall quote Lord Byron:

> A thousand years scarce serve to form a state; an hour may lay it in the dust.

Mr. President, let me explain my motion now for the benefit of Senators on both sides.

Mr. President, in offering this motion to recommit, I am, I hope, providing one last opportunity for the Senate to come to grips with what we are about to do. It is my desire that each one of us, before we cast our vote on the conference agreement to S. 4, have the chance to reevaluate our position, to rethink the damaging consequences that will necessarily extend from this enhanced rescission proposal, and to vote, instead, for a more sensible approach than that offered in S. 4, as amended.

In essence, my motion to recommit would supplant the provisions currently contained in the conference agreement with those contained in S. 14, as originally introduced by Senators DOMENICI, EXON, CRAIG, BRADLEY, COHEN, DOLE, DASCHLE, and CAMPBELL on January 4, 1995. That measure was, I believe, a workable proposal that would give the President broad and uncomplicated authority to propose the rescission or repeal of not only appropriated funds, but, also, new direct spending and targeted tax benefits.

Consequently, my proposal will allow any President to rescind any of these budget items under an expedited process that guarantees the President will receive a vote on any of his proposed rescissions. The process would work as follows:

The President would have 20 calendar days after the date of enactment of each covered measure to transmit a special message to Congress proposing to cancel any of the budget items previously mentioned. The House and Senate would then be required to take up the President's proposed rescissions

under expedited procedures which would ensure that a vote on final passage of the President's proposed rescissions shall be taken in the Senate and House of Representatives on or before the close of the tenth day of session of that House after the date of the introduction of the bill in that House.

Furthermore, procedures are contained in the measure to ensure that such measures are introduced no later than the third day of session of each House after receipt of a special message from the President.

During consideration of the rescission bill in either House, any member may move to strike any proposed cancellation of a budget item. I might note parenthetically that this represents a change from S. 14, as introduced, in that S. 14 would have required a member of the House to gather the signatures of 49 other members in order to offer an amendment to a rescission bill on the Floor and in the Senate would have required a Senator to collect an additional 11 signatures in order to be able to offer an amendment to strike a proposed rescission from a bill. I do not agree that members of the House and Senate should be prohibited from offering their amendments as they so wish without the necessity of gathering signatures from other members.

Under my proposal, debate in the Senate on a rescission bill and all debatable motions and appeals in connection therewith shall not exceed 10 hours. A motion in the Senate to further limit debate on a rescission bill is not debatable. A motion to recommit a bill is not in order. Debate in the House of Representatives or the Senate on any conference report on any rescission bill shall be limited to not more than two hours, motions to further limit debate will be nondebatable, and motions to recommit the conference report will not be in order.

Finally, my proposal contains an ironclad lockbox provision to ensure that any monies saved through these rescissions are, indeed, used for deficit reduction. Under this proposal, the President and Congress must each take action to reduce the discretionary spending limits contained in section 601 of the Congressional Budget Act, the committee allocations under section 602, and the balances for the budget under section 252 of the Balanced Budget and Emergency Deficit Control Act.

By adopting this proposal, I believe that the Senate will then have passed a measure that effectively amends the present impoundment procedure, while at the same time maintaining the constitutional separation of powers by protecting congressional control of the purse strings from an unchecked executive.

Mr. President, I remind my colleagues that it was the considered judgment of the distinguished chairman of the Budget Committee, working in conjunction with the ranking member of that committee, Mr. EXON, that the expedited rescission process contained in S. 14, as originally introduced, was the most appropriate approach to this issue. Based on their expertise—expertise gained through many years of study of the budget process—the provisions contained in the Domenici-Exon rescission bill give us a workable process. Consequently, my motion, if adopted, would force the Congress to vote, in an expedited fashion, on the President's rescission proposals. No longer would Congress be in a position to simply ignore the recommendations of the President. We would be mandated, under the language I am proposing to have substituted, to consider the President's request, and to do so in a timely manner.

Furthermore, under the terms of S. 14, as introduced, this newly crafted expedited rescission process would extend not only to appropriated funds, but, also, to the vast amounts of revenues lost each year through the use of tax expenditures. As with entitlement programs, tax expenditures cost the U.S. Treasury billions of dollars each year; nearly $500 billion in this fiscal year alone. And, again, like entitlements, they receive little or no scrutiny once they are enacted into law. Even though they increase the deficit, just like spending on mandatory programs, tax expenditures routinely escape any meaningful fiscal control or oversight. Indeed, by masquerading as a tax expenditure, a program or activity that could not pass congressional muster could be indirectly funded and survive for years.

Yet, the conference agreement on S. 4 effectively puts this entire area of Federal expenditures out of the reach of the President. By limiting the President's rescission authority to only those tax expenditures that, by definition, benefit 100 or fewer taxpayers, S. 4 absurdly restricts the ability of the President to get at this type of backdoor spending.

How absurd is this? Imagine limiting the scope of the President's rescission authority to those appropriations that impacted 100 or fewer beneficiaries. Imagine the wrath of verbal indignation that would befall any Senator who stood up here and proposed that kind of rescission process. What would the proponents of S. 4 think of the efficacy of their legislation with that type of restriction in place on appropriated funds?

Mr. President, the concept of numerical definitions on tax expenditures was rejected in the Senate because we all know that any tax lawyer worth his salt can find a few extra people to qualify for the targeted tax benefit, thereby bringing the number of beneficiaries above 100 and out of range of rescission authority. Consequently, this limitation is nothing more than an open invitation to the many creative tax attorneys in this country to find ways to abuse the system.

But the asininity of such a provision does not stop there. The definition of a tax expenditure, or "limited tax benefit" as S. 4 calls it, is further gutted with exemptions for tax breaks that serve to benefit all persons in the same industry, or all persons engaged in the same type of activity, or even all persons owning the same type of property. Thus, under that definition, a special tax break passed by the Congress for anyone owning a Rolls Royce, for example, would not be subject to a presidential rescission since everyone affected would own the same type of property, in this case a Rolls Royce.

Mr. President, I find it ironic that the proponents of S. 4—who seem to be claiming that their so-called line-item veto is the only version that will effectively cut wasteful spending—are the very same people who seem to be afraid to give the President of the United States a similar method of cutting wasteful tax breaks. Why should the President be given the power to veto spending for school lunches, or highway construction, or drug programs, and not be given the power to veto the tax deduction claimed by businessmen for a three-martini lunch? Whether wasteful spending is in a program funded through an appropriation or through a tax break, it is still wasteful spending.

The Domenici-Exon expedited rescission bill, which I am offering as a substitute to the current conference agreement, gives the President real authority to go after wasteful tax breaks. Under the substitute, every tax break would get the same presidential scrutiny as every program funded through the appropriations process. No more, but certainly no less.

Finally, but not insignificantly, Mr. President, is the issue of timing. The rescission process that I am proposing is immediate. It is not put off until next year. It is not delayed until 1997, as it is under the conference agreement. Under the substitute, the President would have the opportunity to exercise his newfound rescission powers right away, this year, on any appropriations, or entitlements, or tax expenditures enacted by this Congress. But, under the conference agreement, the President—in this case President Clinton—is not allowed to affect the fiscal year 1997 appropriations. Apparently, President Clinton is not to be trusted with this new power. Apparently, the hope of the proponents of the conference agreement is that, after 1996, the White House will be under Republican control. Apparently, what is good for a possible Republican President is not so good for a President for the Democratic party.

Mr. President, my position on enhanced rescission is well known to my

colleagues. I believe that passage of this conference report, in its present form, would be a truly monumental mistake that will do great harm to the constitutional balance of powers while contributing very little toward balancing the federal budget. I have been, and continue to be, unalterably opposed to granting any President the power to rescind portions of spending measures under conditions which would require a two-thirds vote of both Houses to override such rescissions.

But if we are to have legislation that amends the current rescission process, I hope that we will at least have the presence of mind to ensure that we do not give away, in wholesale fashion, that which the constitutional Framers so wisely placed in this branch of government. Accordingly, I urge my colleagues to adopt my motion to recommit.

The PRESIDING OFFICER (Mr. MCCAIN). Who seeks recognition?

Mr. BYRD. Mr. President, I ask the time be charged against my time on the amendment.

The PRESIDING OFFICER. The time will be so charged. The Senator from Indiana is recognized.

Mr. COATS. Mr. President, I, first of all, want to take this opportunity to express my respect for the Senator from West Virginia. We clearly are on different sides of this issue. He has been an articulate and zealous protector of the prerogatives and rights of this institution, and he has articulated those well, and I respect that.

I also respect his unswerving allegiance and dedication to that proposition and know that it is very, very important, and it has been over the 8 years of debate on line-item veto, a great history lesson for this Senator.

Mr. BYRD. Mr. President, I thank the distinguished Senator for his overly generous and charitable remarks.

Mr. COATS. Mr. President, it is my understanding that it has been cleared that we could move to a vote at 5:45, to have Senator DOMENICI recognized in order to make a motion to table the pending motion to recommit.

I want to make sure the minority leader and Senator BYRD—if that is his understanding?

Mr. BYRD. That is my understanding. I have no objection. I ask the request be amended to provide that Mr. MOYNIHAN be recognized at 5 o'clock to speak in opposition to the conference report, and the time to be charged against my time on the bill.

UNANIMOUS-CONSENT AGREEMENT

Mr. COATS. We have no objection to that, Mr. President. Therefore, I ask unanimous consent that at the hour of 5:45 this evening, Senator DOMENICI be recognized in order to make a motion to table the pending motion to recommit, and, prior to that, at 5 p.m. this evening, Senator MOYNIHAN of New York be recognized to speak in opposition—in favor of the motion to recommit and in opposition to the bill on the floor, the time to be charged to the Senator from West Virginia.

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

Mr. COATS. Mr. President, I would just alert our fellow Senators that a rollcall vote will now occur at 5:45 p.m. today; that there will still be, after that vote, time remaining on this debate. I am not sure how much of that time will be used. I do know there are some requests for time, so Senators should also expect that there will be additional debate and a vote on final passage on this line-item veto conference report sometime this evening.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. LOTT. Mr. President, I would like to request some time on this side. I think 5 minutes will be adequate.

Mr. COATS. Mr. President, I am happy to yield to the Senator from Mississippi whatever time he desires.

The PRESIDING OFFICER. The Senator from Mississippi is recognized.

Mr. LOTT. Mr. President, I want to say this afternoon I am extremely proud of the U.S. Senate and of the Congress, because I believe before this week is out we will have passed this already described momentous legislation into law. It is not an easy thing to do. It is very difficult.

I remember, soon after I came to the Senate, we had debate on the line-item veto. I think probably the Senator from Indiana and the Senator from Arizona, Senator MCCAIN, were involved in it then. I made some comments, and I had a couple of Senators come over and explain to me that might not be a good idea, to support that. They caused me to think a lot about it.

But here, in effect, we are taking action against our interests. This is a fundamental change; there is no denying it. The Senator from West Virginia is right; the Senator from Alaska. Yet, we are going to do it because, first, I think, we have come up with better legislation than we had 7 years ago, or earlier this year.

We have improved it. We have made it more acceptable to more Senators or Congressmen, Republicans and Democrats. So we are going to go forward with it, and we are going to do it at a time when the majority of the Congress is not of the party of the President in the White House. We are saying that in spite of that—maybe because of it—we want him to have this additional authority.

For 15 years, we have been talking about the line-item veto, maybe longer. But I personally have been familiar with it for those years. As a Member of the House, I was for the line-item veto. I remember making speeches when President Carter was in the White House, and I continued to be for it during the Reagan administration, the Bush administration, and I continue to be for it.

So I think we are showing that we can rise above politics, if you will—partisan politics—and take an action because we believe it will be the right thing to do for our country, we believe it will be the right thing to do in trying to help control spending. It may not work like we hope it will, it may run into difficulties, but I believe it is the right thing to do, and I do support it.

I think that it will be used responsibly by the Presidents of the United States, this one or his successors. I think most Governors use it responsibly in their exercise of the line-item veto, and I think the Presidents will. But if they do not, we will have another opportunity to address it.

I do also want to join in commending the Senator from Arizona, Senator MCCAIN, for his dogged support of this idea, and also the Senator from Indiana. They have worked together. They have worked against overwhelming odds and never gave up, even though it looked pretty dismal just a month or so ago.

I have to express my appreciation for Senator STEVENS and Senator DOMENICI. They were aggressive, they were active, but they were involved. I remember I had been talking with the Senator from Alaska one night about what we had been trying to do, and he had been very aggressive in saying how he did not want us to do that. He had worked me over from three or four different angles trying to educate me. Then I said, "OK, I understand you don't want it. Is there a solution?" He stopped and said, "Well, maybe there is."

So we worked together. Even the Senator from West Virginia, who so opposes this legislation, has been very much a gentleman in the way he has handled the debate, how he is addressing this issue today, the motion to recommit he has offered, and the time agreements he has entered into. So a lot of people deserve credit.

I think it is a carefully crafted piece of legislation. We went into the detail of what would it mean for the President to be able to veto in whole or in part. Quite frankly, we were a little bit surprised—I know I was—at what that could mean. So we worked to try to clarify what that "in part" meant.

It does include things other than just appropriations. It does include the so-called tax expenditure. But that provision is carefully drafted, it is carefully defined, and I think we came up with the right blend, so that also can be considered by the President when he reviews legislation we send to him.

We were very careful in deciding what to do on the sunset. There was a lot of argument that we should have no sunset, and there were others who said, and I kind of agreed, "Look, this is big

legislation, important legislation, it may not work out correctly. It may be abused. So after a certain period of time, let's be allowed to take a look at it."

I think it will work correctly. I hope it will be extended. I hope to support to extend it when the time comes.

We even talked a lot about the effective date. We wanted to make sure it was going to be handled in such a way it would go into effect as soon as possible. We do have a provision that says if we reach a balanced budget this year, it will go into effect on that date, or January 1, 1997, whichever is earlier. The President and the majority leader talked about that and agreed that was the fair way to do it.

I think we have done what we said we were going to do. I have always felt the President should have this authority. I am in the Congress. I guess I should be jealous of ceding authority to the President, but I really do feel the President should have this authority. We can only have one Commander in Chief at a time. He is the ultimate authority. He should have the ability to go inside a bill and knock out things that are not justified, that have not been sufficiently considered, that cost too much—whatever reason—without having to veto the whole bill.

I am very pleased this afternoon to rise on the floor of the Senate and commend the Senate for what I believe will be their action today and all those associated with this effort. I think it is the right thing to do. I believe it will help save some of our children's tax money in the future.

I yield the floor, Mr. President.

The PRESIDING OFFICER. Who yields time?

Mr. BYRD. Mr. President, I yield to the distinguished Senator from Michigan [Mr. LEVIN], 30 minutes.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Mr. LEVIN. I thank the Chair.

Mr. President, first, let me thank our friend from West Virginia. He has already been told this afternoon by so many of us just how important he is to the Nation and to the U.S. Senate in the cause he is fighting and the many causes he has fought and continues to fight for in this body. Many of the accolades, indeed, have come from people who are on the other side of this issue from him, but I want to let him know, as someone on the same side of this issue as he is, we, too, feel particularly keenly about the leadership that he has exerted on this issue and so many other issues involving the Constitution of the United States.

This is our bedrock document, a fundamental document. It has no more staunch supporter of the Constitution in this body or in this country than Senator BYRD, and I just want to add my voice to those of so many others in this body on both sides of this issue in gratitude for the labor that he has given to this Constitution. From his perspective, I know they are not labors because they are labors of love.

Mr. BYRD. Mr. President, the Senator from Michigan is a man of great tenacity and perception and love for the Constitution and for him to deliver remarks on my behalf, he certainly has brightened my day. I am very grateful.

Mr. LEVIN. Mr. President, while we are expressing sentiments about each other personally, before I get into my remarks on this bill, which I oppose for reasons I will set forth, I want to add my thanks also to the Presiding Officer and the Senator from Indiana, who is managing the bill, and to others on the other side of this particular issue for the manner in which this debate has proceeded.

It is a very significant debate, and people on both sides of this issue feel very keenly about it. I think there is unity in terms of trying to find a form of line-item veto, so-called, which is constitutional, because whatever side of the particular bill we are on, as to whether we think this version is constitutional or not, I think most of us would like to find a formula which would give the President greater power to identify issues in bills, items in bills which he feels should be separately voted upon, which should be highlighted for the public, for the Congress, and we should then vote up or down on.

I, for instance, very much favor the version which the Senator from West Virginia has offered, which will be voted upon later this afternoon. That so-called expedited rescission process, it seems to me, is constitutional and is something which we can in good conscience, at least I can in good conscience, support.

The Presiding Officer and many others in this body obviously feel that the version which is currently before us is constitutional or I do not think they would have been proposing it. There is a difference on this issue, but it is a difference which is held in good faith. I must say, I greatly admire the Senator from Arizona and the Senator from Indiana and others for the manner in which they have proceeded relative to this issue.

Mr. President, as I said, I support the version of the line-item veto which is known as expedited rescission. That version would ensure that any item of spending which is enacted by the Congress that the President believes to be inappropriate would, in fact, have a separate congressional vote.

That approach to the line-item veto would make it impossible to hide questionable spending in massive appropriations bills. That is one of the goals of the sponsors of the version that is before us. It is to make it impossible to hide questionable spending in these massive appropriations bills.

Senator BYRD's version—the expedited rescission approach—also will make it impossible for these kinds of items to be hidden by a Congress because it would require and ensure a separate congressional vote on any item of spending that the Congress enacts that the President feels is inappropriate.

The problem with the current bill is that it fails the fundamental test of being consistent with the requirements of the Constitution that any repeal or amendment to a law be enacted in the same way that the law itself was enacted. The Constitution establishes the method by which laws are enacted, by which laws are amended, and by which laws are repealed. It is fundamental constitutional law. It is basic, bedrock law that says that a bill becomes law when it is passed by both Houses of Congress and signed by the President, or if the bill is vetoed by the President, when that veto is overridden by a two-thirds vote in each House.

The bill before us purports to create a third way by which laws can be made, a way not recognized in the Constitution. And this third way, this new way, is by giving the President the unilateral power to repeal a law or part of a law without any action by the Congress.

The Founding Fathers made a conscious decision to give the power of the purse to the Congress and not to the President. This power of the purse serves an important check on the power of the Presidency. It is, in fact, a crucial element in the system of checks and balances which was established by the Founding Fathers. These checks and balances are not a mere abstraction; they were expressly written into the Constitution to protect our freedom.

James Madison warned in Federalist No. 47 that—

> There can be no liberty where the legislative and executive powers are united in the same person.

He quoted Montesquieu for that point. It was because of that, the fear of uniting executive and legislative powers in the same person, that article I of the Constitution gives Congress, and not the President, the power of the purse.

Article I, section 1, states without qualification—and the first word in this quote is the critical one—

> All legislative Powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives.

Article I, section 8 adds:

> The Congress shall have Power To lay and collect Taxes, . . . to pay the debts and provide for the common Defense and general Welfare of the United States; . . . [and] To make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers, and all other Powers vested by this Constitution in the Government of the United States, or in any Department or Officer thereof.

Article I, section 9 affirms that:

No money shall be drawn from the Treasury, but in Consequence of Appropriations made by law.

It was Madison, in Federalist No. 58, who explained that the power of the purse was granted to Congress because it represents the "most complete and effectual weapon with which any Constitution can arm the immediate representatives of the people for obtaining a redress of every grievance and for carrying into effect every just and salutary measure."

Congress cannot change the system of checks and balances established by the Founding Fathers. We cannot do it, and we should not try. But this conference report, in the mechanism which it chooses, attempts to change the system of checks and balances which are embedded—and may I use the word "enshrined"—in the Constitution of the United States.

The enhanced rescission power that is granted to the President by this bill attempts to alter our constitutional system by giving the President unilateral authority to control spending and to substitute his personal budget priorities for the priorities that have been passed by the Congress and signed into law. This bill would give the President the unilateral power to repeal a statute or part of a statute without any action at all by the legislative branch.

That is the heart of the matter. This bill in front of us would give to the President the unilateral power to repeal a statute or part of a statute, the law of the land, without any action by the legislative branch. That is something that we cannot do.

The Supreme Court said as recently as in the Chadha case, that it is beyond Congress' power to alter the carefully defined limits and the power of the branches. This is what the Supreme Court said in Chadha:

The bicameral requirement, the Presentment Clauses, the President's veto, and Congress' power to override a veto were intended to erect enduring checks on each Branch and to protect the people from the improvident exercise of power by mandating certain prescribed steps. To preserve those checks, and maintain the separation of powers, the carefully defined limits on the power of each Branch must not be eroded.

The Chadha court went on to say:

There is no support in the Constitution or decisions of this Court for the proposition that the cumbersomeness and delays often encountered in complying with explicit constitutional standards may be avoided, either by the Congress or by the President. . . . With all the obvious flaws of delay, untidiness, and potential for abuse, we have not yet found a better way to preserve freedom than by making the exercise of power subject to the carefully crafted restraints spelled out in the Constitution.

The veto or the repeal or the cancellation, unilaterally, of an existing law by the President is subject to the same constitutional restraints.

The Chadha court explicitly stated that "[a]mendment and repeal of statutes, no less than enactment, must conform with Article I" of the Constitution.

That is an explicit statement of Chadha by the Chadha court. We cannot change that unless we adopt a constitutional amendment and send it to the States.

The Chadha court has told us what courts have told us throughout our history, what the Constitution has told us. It says explicitly, "[a]mendment and repeal of statutes, no less than enactment, must conform with Article I" of the Constitution.

What this bill says is, "Well, we will try to create something else. We will let the President decide within 5 days after a law becomes law that he wants to cancel a part of that law." Unless the Congress acts to override him, the President's unilateral cancellation effectively amends the law of the land. We cannot do that. We should not try.

The Chadha court explained why it reached the conclusion that it did. It wrote that during the Convention of 1787 the application of the President's veto to repeals of statutes was addressed. It was very explicitly addressed during the Constitutional Convention. The Chadha court went through the Convention. The issue was the application of the President's veto to repeals of statutes. The Chadha court concluded, "There is no provision allowing Congress to repeal or amend laws by other than legislative means, pursuant to article I."

Now, Mr. President, the conference report acknowledges what I think is obvious: That when the President signs the appropriations bill—this approach would allow him to cancel within 5 days that appropriations bill—upon his signature that becomes the law of the land. The conference report, section 1021 says that notwithstanding the provision of parts A and B and subject to provisions of this part, "the President may with respect to any bill or joint resolution that has been signed into law, pursuant to article I, section 7 of the Constitution, may cancel in whole or in part," and it goes on to talk about what the President can cancel.

We are only talking here about bills which have become the law of the land. Those are pretty important words in this government of law. We do not allow Presidents to pick and choose which laws they abide by and which ones they do not. I cannot think of any other places where we say a law could be canceled by a President acting unilaterally; yet this bill says that a law—and that has become enacted, signed by the President—can be canceled in whole or in part by the President, acting alone.

Of course, the bill gives us the opportunity to override that cancellation with new legislation. That is not the point. That is not what article I of the Constitution provides. Article I of the Constitution as interpreted by Supreme Court opinion after Supreme Court opinion as recently as Chadha says the repeal, the amendment, the modification of a law must be done in the same way that a law is enacted. This bill is a deviation from that. This bill says "Well, we will create another way. We will create a new way. You do not have to enact an amendment. You do not have to adopt an amendment. You do not have to repeal the law the way the Constitution provides. We're going to say that the President of the United States, acting alone, is able to cancel a law of the United States."

Now, Mr. President, the argument has been made that the bill just restores to the President the authority that he exercised prior to the enactment of the Impoundment and Control Act in 1974. That is plainly wrong. No President has ever exercised the kind of unrestrained right to override congressional budget decisions that this bill would attempt to create. The Assistant Attorney General, Charles Cooper, in the Reagan administration, stated in a 1988 legal opinion, the following:

To the extent that the commentators are suggesting that the President has inherent constitutional power to impound funds, the weight of authority is against such a broad power. This office has long held that the existence of such a broad power is supported by neither reason nor precedent. Virtually all commentators have reached the same conclusion without reference to their views as to the scope of executive power.

I note that same Assistant Attorney General, Charles Cooper, in the Reagan administration, cited no less an authority than Chief Justice Rehnquist, writing in his position as Assistant Attorney General in the Nixon administration, for the proposition that a Presidential power not to spend money "is supported by neither reason nor precedent."

The Constitution does not authorize this version of a line-item veto. The Constitution does not permit the President to repeal a law, to suspend a law, to ignore a law, unless he chooses to veto the law itself. He cannot cancel laws. This is just another word for modifying it or ignoring it or vetoing it.

George Washington said 200 years ago, "From the nature of the Constitution I must approve all the parts of a bill or reject it in toto."

Former President and Chief Justice William Howard Taft explained, "The President has no power to veto parts of the bill and allow the rest to become a law. He must accept it or reject it, and even his rejection of it is not final unless he can find more than one-third of one of the Houses to sustain him in his veto."

Congress cannot give the President that authority or even greater authority simply by changing the labels and calling a repeal or an amendment the

"cancellation" of a law. It is not the labels that count. It is the substance of what we are doing or purporting to do. What we are purporting to do in this bill is to give the President of the United States unilaterally a right which the Constitution denies him, and that is the right to cancel or veto or amend or modify or ignore the law of the United States.

If it is unconstitutional for Congress to give the President a particular power under one label, it is not suddenly constitutional merely because we change the label. We cannot acknowledge that the President does not have the right to "modify" or "repeal" a law under the Constitution, but at the same time maintain that he can "cancel" a law. A veto is no less a veto and a repeal is no less a repeal because we call it suspension or cancellation.

As a matter of fact, the Random House dictionary defines a veto as "The power vested in one branch of a government to cancel the decisions, enactments, et cetera, of another branch." To paraphrase the statement of Senator Sam Ervin on a similar issue in 1973, "You can't make an onion a flower by calling it a rose."

Now, it is argued by some that this bill is a constitutional delegation of power because the President is simply exercising some legislatively authorized discretion not to enforce a statutory provision. By this reasoning, the appropriation that has been canceled is still law. But I do not believe that is the intent of the sponsors. The bill itself is entitled the "Line-Item Veto Act." The bill creates a new part of the Congressional Budget Act entitled, "Part C, Line-Item Veto." The first provision of this new part is entitled, "Line-Item Veto Authority."

Now, in addition, the so-called discretion in this conference report only operates in one direction. Once a President cancels an appropriation under the bill, neither that President nor any other President would be permitted to spend the appropriated money without the enactment of new legislation.

When a President cancels a provision of law providing for direct spending, this bill provides that the provision shall have no legal force or effect. The bill expressly states in section 1026(4)(b) that the term "cancel" means, in the case of budget authority provided by law, to prevent such budget authority from having legal force or effect. That is right in the bill itself. There is no discretion that is being granted here to the President. There is only one-way discretion here, which is to cancel a provision of law and deprive it of legal force and effect in perpetuity.

Similarly, in the case of entitlement authority, the bill states that a cancellation "prevent[s] the specific obligation of the United States from having legal force or effect." The whole purpose of this bill is to deny the legal force or effect of any part of an appropriation that the President has canceled. In the case of the Food Stamp Program, the bill says its purpose is to "prevent the specific provision of law that results in an increase in budget authority or outlays for that program from having legal force or effect."

Now, Random House defines the term "cancel" to mean, "make void, to revoke, to annul." I think we would all agree that any bill that purported to authorize the President to unilaterally void or annul or revoke a statute would be unconstitutional.

Can the result be different because, instead of calling it a repeal or an annulment, we call it a cancellation? Can the application of the label "cancel" to what is clearly a repeal and an annulment change the outcome legally? I do not think so.

The bottom line is that this bill purports to grant to the President of the United States a unilateral authority, which the Constitution will not allow him to have or us to grant to him; that is, the authority to repeal a law without any action by Congress.

Chadha says that you cannot repeal or modify a law without any action by Congress. The Constitution says it. We cannot do—and we should not attempt to do—what the Supreme Court says cannot be done and which the very logic of the Constitution says cannot be done.

Assistant Attorney General Cooper, again in the Reagan administration, explained this in his legal memorandum on impoundment. He said that because an inherent impoundment power would not be subject to the limitations on the veto power contained in article I, clause 8, an impoundment would, in effect, be a superveto with respect to all appropriations measures. The inconsistency between such an impoundment power and the textural limits on the veto power further suggests that no inherent impoundment power can be discovered in the Constitution.

The same conclusion must be reached with regard to the cancellation power which is proposed in this conference report. Like an inherent impoundment power, cancellation of a provision would, in effect, be a superveto, going far beyond the veto power given to the President in the Constitution, because the President would not be required to veto the entire bill. Congress cannot, by statute, give the President powers that were denied to him in the Constitution.

As Prof. Thomas Sargentich of the Washington College of Law at American University explained in a March 13, 1995 letter to me, regarding an earlier version of this bill which took the same approach:

> S. 4 presents the question whether, given that the President cannot unilaterally rewrite or delete some portion of a bill at the time of presentment, the President nevertheless can sign the bill and decide thereafter to rescind budget authority under the law. Proponents of S. 4 seek to rely on a verbal contrast between "rescission" of budget authority and "repeal" or "veto" of all or part of a statute. The notion is that a 'rescission' is simply the execution of the law pursuant to a broad delegation.
>
> The problem with this suggestion is that it seems to exalt verbal form over legal substance. * * * A repeal of all or part of a statute after it becomes effective can only be accomplished by new legislation enacted with adherence to bicameralism and presentment. Using words like "suspend" or "rescind" or any other somewhat muted verb does not alter the underlying legal situation.

Similarly, Louis Fisher of the Congressional Research Service concluded in 1992 testimony before the House Rules Committee that a statute purporting to give the President unilateral power to rescind an appropriation would be unconstitutional. Dr. Fisher stated:

> Under what theory of government can Congress delegate to the President the power to rescind laws without further legislative involvement? Congress regularly delegates to the President substantial authorities to 'make law,' but this consists of discretion within the bounds of statutory law, not the power to terminate law. * * * Even if contemporary case law sustains the constitutionality of broad delegations, I would argue that the rescission of previously appropriated funds requires action through the regular legislative process: action by both Houses on a bill that is presented to the President.

And, a 1987 Note in the Yale Law Journal concludes unequivocally that—

> A transfer of authority to the President [through an enhanced rescission bill] to decide which parts of appropriation bills to enforce, would be a delegation of Congress' spending power. Such a delegation, however, would be unconstitutional. * * * Congress cannot constitutionally seek to solve its budget problems by attempting to divest itself of its constitutionally assigned powers.

Mr. President, I am confident that the courts will strike this provision down as an improper attempt by Congress to override the explicit standards, in article I of the Constitution, for the enactment and repeal of legislation. However, I do not believe that we should rely upon the courts to strike down unconstitutional statutes; we have an independent duty to scrutinize our actions and reject any proposal that would violate the strictures of the Constitution.

It has been argued that the end of hope for deficit reduction justifies the means.

The line-item veto has been cast as a mechanism to cut wasteful spending by Congress.

The premise has been weakened by the fact that the Presidents' budgets during most of the Reagan-Bush years had greater deficits than the budgets adopted by the Congress.

Also numerous studies show that State line-item veto provisions, rather than reducing spending, have been used

for partisan, political purposes. CBO Director Robert Reischauer testified before the Governmental Affairs committee that:

Evidence from the states suggests that the item veto has not been used to hold down state spending or deficits, but rather has been used by state governors to pursue their own priorities....[A] comprehensive survey of state legislative budget officers found that governors were likely to use the item veto for partisan purposes..., but unlikely to use the veto as an instrument of fiscal restraint.

The same is likely to be true at the Federal level. For example, a President could push his agenda in Congress by threatening to use a line-item veto or enhanced rescission authority to kill projects in the State or district of a Member who opposed his proposals. Such threats could be used to advance policies in area—such as health care and welfare reform—that are completely unrelated to Federal spending. They could even be used to persuade Congress to increase Federal funding for projects favored by the President.

But even if one believes line-item veto will have a major impact on the deficit, then do it constitutionally. That is what the Byrd motion is all about. We should not do it by trying to give the President a part of the power over the purse, a power the constitution reserves to the Congress. We should not do it by trying to give the President the right to repeal a law or a portion of a law without congressional involvement.

The sponsors of the bill have taken the position that Presidents are unlikely to abuse these new powers. That view is not only naive, it is also inconsistent with the view of our Founding Fathers and the purpose of our constitutional system of checks and balances. As James Madison explained in "Federalist Number 51":

[The great security against a gradual concentration of the several powers in the same department, consists in giving to those who administer each department, the necessary constitutional means, and personal motives, to resist encroachments of the others....If men were angels, no government would be necessary. If angels were to govern men, neither external nor internal controuls on government would be necessary.

Moreover, as Justice Frankfurter pointed out in the wake of our battle against dictatorship in the Second World War, the road to tyranny may be paved with the best of intentions. Writing in the so-called Steel Cases overturning President Truman's attempt to take control of steel mills, Justice Frankfurter states:

[The Founders] rested the structure of our central government on the system of checks and balances. For them the doctrine of separation of powers was not mere theory; it was a felt necessity. Not so long ago it was fashionable to find our system of checks and balances obstructive to effective government. It was easy to ridicule that system as outmoded—too easy. The experience through which the world has passed in our own day has made vivid the realization that the Framers of our Constitution were not inexperienced doctrinaires. These long-headed statesmen had no illusion that our people enjoyed biological or psychological or sociological immunities from the hazards of concentrated power. It is absurd to see a dictator in a representative product of the sturdy democratic traditions of the Mississippi Valley. The accretion of dangerous power does not come in a day. It does come, however slowly, from the generative force of unchecked disregard of the restrictions that fence in even the most disinterested assertion of authority.

Much will no doubt be made in the course of this debate of the fact that the President supports this bill of course. Every President would like Congress to hand over part of its power over the purse.

I would point out however that former Counsel to the President—the President's own counsel—has parted company with the President on this issue. In a March 25, 1996, column in the Legal Times, Abner Mikva wrote that line-item veto proposals not only raise constitutional problems, but would also transfer excessive power to the President. Judge Mikva has been consistent, and convincing, on this issue. Back in 1986, Judge Mikva wrote, in the University of Georgia Law Journal:

[T]he source of almost all congressional power—the spine and bite of legislative authority—lies in Congress' control of the nation's purse. If ever Congress loosens its hold on this source of power or if ever the President wrests it away, then, to quote the late Senator Frank Church, "the American Republic will go the way of Rome." The delicate balance created by the Framers will have been destroyed.

* * * * *

Since 1873, when Ulysses Grant first proposed the idea, over 150 legislative proposals have called for Congress to give to the President the ability to veto individual parts of a bill. Congress has thus far rejected such proposals; with any luck, it always will.

For regardless of whether Congress yields budgetary authority or the President usurps it, the threat to our constitutional order is the same. In our governmental system, the legislature does and must have plenary power over the budget. The power of the purse is the strength of the Congress; take that away, and all else will fall. Is Congress' management of the budget inefficient? Surely it is; the workings of democratic institutions always are. Is it cumbersome? Of course it is; getting a majority of 535 political prima donnas to agree on anything is a difficult task. But if we wish to live in a pluralistic and free society, we will strive to ensure that Congress retains exclusive control of the nation's purse. Only in that event will the delicate balance of our constitutional structure be preserved.

Mr. President, this bill is an unwise attempt to give away Congress' power over the purse and undo the system of checks and balances created by our Founding Fathers. It is at odds with the requirements of the Constitution. I urge my colleagues to reject it and adopt a different version called expedited rescission.

Mr. MCCAIN. Mr. President, we were sort of going back and forth from one side to the other. Since Senator LEVIN just went, Senator ROTH was going to go and, then, I understand Senator DASCHLE will go. I believe that is the normal custom.

Mr. BUMPERS. Mr. President, I wonder if the floor manager would be willing to enter into a unanimous-consent agreement specifically naming the order of those who were here on the floor so others will know approximately when to come to the floor.

Mr. MCCAIN. I note the presence of the Senator from West Virginia. I hope that is agreeable with him.

Mr. BUMPERS. I defer to our leader there, Senator BYRD, with how to approach this.

Mr. BYRD. Under the circumstances, I would be willing to do that. I am ordinarily not willing to stray away from what the rules require, but I would be happy to do that on this occasion.

Mr. BUMPERS. I suggest that Senator ROTH be recognized next, following which Senator DASCHLE be recognized.

Mr. DASCHLE. Well, Senator BUMPERS has been here longer than I have.

Mr. BUMPERS. I do not mind yielding to the leader. He has a much busier schedule than I do. Who would be next on that side?

Mr. MCCAIN. I am not sure at this time whether it would be Senator NICKLES or Senator KYL.

Mr. BUMPERS. And then it would come back to me?

Mr. MCCAIN. Yes, then the Senator from Arkansas.

Mr. BUMPERS. Does the Senator from Maryland wish to speak on this issue?

Mr. SARBANES. How long do we expect people to speak if we set up this procedure?

Mr. MCCAIN. I say to my friend from Maryland that usually about this time of the afternoon and evening we find there are a lot of speakers.

The PRESIDING OFFICER. The Chair notes that Senator MOYNIHAN is to be recognized at 5 o'clock.

Mr. MCCAIN. Yes, by previous unanimous consent, and there is a vote under a previous unanimous consent at 5:45.

Mr. BUMPERS. Is a certain time allotted to Senator MOYNIHAN?

Mr. BYRD. It is 30 minutes, I believe.

Mr. MCCAIN. I ask the Chair, how much time does Senator MOYNIHAN have? Is there a certain amount of time?

The PRESIDING OFFICER. No time was allotted.

Mr. BYRD. Mr. President, I yield 30 minutes to Mr. MOYNIHAN.

Mr. MCCAIN. At 5:45 is a vote to table the Byrd motion to recommit, under a previous agreement.

Mr. BYRD. So, between now and 5, there is time for several Senators.

Mr. McCAIN. Mr. President, I yield 15 minutes to the Senator from Delaware, Senator ROTH.

Mr. NICKLES. Will the Senator yield to me briefly?

Mr. McCAIN. Yes.

Mr. NICKLES. Mr. President, I rise today in strong support of the Line-Item Veto Act. The final Senate consideration and passage of this historic legislation is the result of years of hard work on the part of many of my colleagues.

I particularly wish to congratulate Senator McCAIN and Senator COATS, who have dedicated so much of their time and energy to this initiative. In recent years, they have taken up this cause which was so actively pursued in the past by Senator Mattingly, Senator Evans, and Senator Quayle.

My colleagues have shown great courage over the years in continuing to bring this issue to the floor of the Senate. They did this at some political risk, yet they did not waiver. They believe in this issue, and I think they are right.

I believe the line-item veto is vitally important, Mr. President. It will save money, and right now we are spending too much and our budget process does not work very well. The line-item veto is certainly not a panacea for all our budget problems, and it will not balance the budget. But it will help.

According to the Library of Congress, at least 10 Presidents since the Civil War have supported the line-item veto, including Presidents Grant, Hayes, Arthur, Franklin Roosevelt, Truman, Eisenhower, Nixon, Ford, Reagan, and Bush. Further, 43 of 50 State Governors have some form of line-item veto authority.

At its essence, this is a debate over checks and balances. Right now, we are writing a lot of checks, and there are few balances. Congress spends the money, and the President has two options. One, he signs the bill, or two, he vetoes the bill.

Historically, the balance of spending power between the executive and legislative branches of Government has varied considerably. Prior to 1974, several Presidents impounded congressionally directed spending, and Congress had little recourse.

According to the Congressional Research Service, the first significant impoundment of funds occurred in 1803 when President Thomas Jefferson refused to spend $50,000 appropriated by Congress to provide gunboats to operate on the Mississippi River. President Grant impounded funds for harbor and river improvement projects in 1876 because they were of a local interest rather than in the national interest. President Roosevelt impounded funds during the Great Depression and World War II, and in the 1960's President Johnson withheld billions of dollars in funding for highway projects.

This conflict came to a head in the 1970's when President Nixon impounded over $12 billion for public works housing, education, and health programs. Nixon's action led to the enactment of the Congressional Budget and Impoundment Control Act of 1974. Under this legislation, Congress eliminated the President's impoundment authority in exchange for establishing its own budget process.

Under the Congressional Budget Act, the balance of spending power is now significantly in Congress' favor. The President may now propose rescissions of appropriated funds, but Congress is not obligated to consider them. The General Accounting Office reports that from 1974 to 1994, Presidents have proposed 1,084 rescissions of budget authority totaling $72.8 billion. Congress has adopted only 399, or 37 percent, of the proposed rescissions in the amount of $22.9 billion. Congress has also initiated 649 rescissions totaling $70.1 billion, but most of these rescissions have been used to offset other Federal spending.

Mr. President, I have served on the Appropriations Committee. They probably work as hard as any committee in the Senate, and they are responsible for spending a little over $500 billion, about a third of what the Government spends right now.

For the most part, they do an excellent job with the annual appropriations bills and supplementals, but I can tell you from experience that every single appropriations bill has had items in it that we do not need and we cannot afford. The line-item veto will give the President the ability to strike those items that we cannot afford. We may or may not agree with him. If we disagree, we can try to override his veto.

Mr. President, I think it is important to note that this line-item veto will impact not only appropriated spending, but also new entitlement spending and limited tax benefits. We all know it is the outrageous growth of entitlement spending that is causing our deficit problems, so I think it is a significant step to give the office of the President more authority to control the growth of these programs.

Mr. President, again, I compliment my colleagues, particularly Senator McCAIN and Senator COATS, for their leadership. They have taken this issue on year after year, many times at considerable economic and political pain. I compliment them for their courage, and I am proud of their success.

The line-item veto is a significant accomplishment for the 104th Congress, but I continue to hope that it is not our most significant accomplishment. It is with no small degree of frustration that I note that President Clinton and the Democrats killed the constitutional amendment to balance the budget, they killed the Balanced Budget Act, and they killed welfare reform.

When President Clinton campaigned on a line-item veto in 1992, he claimed that he could reduce spending by $9.8 billion during his term. I wish we could have given it to him earlier, since spending has actually increased during his term so far. Even more amazing is that right now, in some room in the Capitol building, the President's aides are insisting on spending $8 billion more this year.

Mr. President, I hope the line-item veto is not our most significant budget accomplishment this year, but even if the President continues to block our other initiatives, this legislation will stand out as a shining example of our success.

Mr. BYRD. Mr. President, I yield 30 minutes to Mr. BUMPERS and 30 minutes to Mr. SARBANES at such time as they are recognized.

The PRESIDING OFFICER. The Senator from Delaware is recognized.

Mr. ROTH. Mr. President, today the Senate turns to the conference report on the line-item veto legislation. This legislation would provide for enhanced rescissions procedures to allow the President to cancel new items of direct or entitlement spending, appropriations, and limit the tax benefits; in sum, virtually all Government expenditures.

Mr. President, while I do support the conference report and believe in the intent of the legislation, I am concerned about the way the legislation affects tax provisions. Let me first outline my views regarding the underlying conference report, and then I will turn to the troublesome language regarding taxes.

Let me be clear that I believe that the line-item veto will not solve our deficit problem. In fact, it will be used as a tool to help trim Federal spending. We all know, that we need every possible tool to help reduce Federal spending.

This is a very important issue that was contained in the Contract With America. The Republican-led Congress continues to keep its promises to the American people in passing legislation that will help reduce Government spending, the budget deficit, and the debt burden on our children. In the Senate's first joint hearing with the House on the issue in January 1995, before the Governmental Affairs Committee, Dr. Alice Rivlin, Director of the Office of Management and Budget asked that the Congress provide the "strongest possible line-item veto power to the President." I agreed with Dr. Rivlin's statement. Congress has acted and will now give the President a very strong version of the line-item veto powers. Both the Senate and House passed the line-item veto overwhelmingly. This week the Senate will pass the conference report. A historic moment.

Mr. President, the time has come to put an end to out of control Federal

spending that has taken money from the private sector—the very sector that creates jobs and economic opportunity for all Americans.

The American people are crying out for a smaller, more efficient Government. They are concerned about the trend that for too long has put the interests of big government before the interests of our job-creating private sector. They are irritated by the double-standard that exists between how our families are required to balance their checkbooks and how Government is allowed to continue spending despite its deficit accounts.

I believe that spending restraint for our nation is one of the most important steps we can take to ensure the economic opportunities for prosperity for our children and for our children's children.

As a nation—and as individuals—we are morally bound to pass on opportunity and security to the next generation.

The Federal behemoth must be reformed to meet the needs of all taxpayers for the 21st century. I am convinced that it is through a smaller, smarter government we will be able to serve Americans into the next century.

The President's recent budget proposals for next year offer clear evidence of the lack of political will to make the hard choices when it comes to cutting Government spending. His budget does not take seriously the need for spending restraint. In fact, Bill Clinton proposes spending over $1.5 trillion dollars this year and nearly $1.9 trillion dollars in 2002. In other words, the only path that the President proposes is one that leads to higher Government spending, higher taxes, and ever-increasing burdens for our children.

Deficit spending cannot continue. We can no longer allow waste, inefficiency, and overbearing Government to consume the potential of America's future. I am committed to spending restraint as we move to balance the budget. As I said before, the line-item veto legislation will not solve our deficit problems, but it will be a helpful tool to cut spending.

While the authority conferred upon the President in this legislation is commonly referred to as a line-item veto, the authority is actually an authority to cancel—with specified limitations—appropriations, entitlements, and tax cuts. This cancellation authority bears closer resemblance to impoundment authority than to a traditional veto.

What this legislation before us does is to allow a President to sign an appropriation, entitlement, or tax bill and then exercise a separate authority to cancel an item in those laws, such cancellation to be effective unless Congress passes another law, presumably over the President's veto, to negate the President's exercise of his cancellation authority.

My concern with this legislation is that I have never heard of impounding a tax cut. I have heard of impounding spending, but not a tax cut. As you know, 43 State Governors have line-item veto authority, but not a single Governor has any authority to cancel a tax cut.

It is my studied judgment that the Federal Government spends too much and taxes too much. The well being of our people would be significantly improved if both spending and taxation were diminished. Consequently, I would like this legislation better if it allowed the President to cancel only spending items and not tax-cut items.

Fortunately, the President's authority in the tax area is narrow—evidence of the fact that the conferees understood the anomaly of impounding tax cuts. In contrast to the authority on the spending side whereby the President may cancel, first, "any dollar amount of discretionary budget authority" and (2), "any item of new direct spending," the authority on the tax side is limited. The President has the authority to cancel only items which meet the definition of a "limited tax benefit."

A "limited tax benefit" is a defined term, which covers two specific categories:

First, a revenue losing provision which provides a Federal tax deduction, credit, exclusion, or preference to 100 or fewer beneficiaries under the Internal Revenue Code of 1986 in any fiscal year for which the provision is in effect; or

Second, any Federal tax provision which provides temporary or permanent transition relief for 10 or fewer beneficiaries in an fiscal year from a change to the Internal Revenue Code.

In further contrast to the President's authority to cancel on the spending side, the legislation before us provides an additional mechanism that applies only with respect to limited tax benefits, in order to further circumscribe the President's authority. This mechanism provides that in certain circumstances Congress may reserve unto itself the sole discretion to identify those items in a revenue or reconciliation bill or joint resolution that constitute a limited tax benefit. Such identification by Congress is controlling on the President, notwithstanding the definition of a "limited tax benefit" in the pending legislation, and is not subject to review by any court.

Historically, the Senate has enacted tax legislation either by unanimous consent, in the case of simple bills, or by agreeing to a conference report, in the case of more significant bills. As a practical matter, the bills adopted by unanimous consent generally deal with one subject and are not an important concern to advocates of a line-item veto authority in the tax area. Conference reports, in contrast, may contain a large number of tax items. It is in such context that a limited tax benefit might be found.

Consequently, whenever a revenue or reconciliation bill or joint resolution that amends the Internal Revenue Code of 1986 is in conference, the Joint Committee on Taxation is required to review the legislation and identify any provision that constitutes a limited tax benefit. If the conferees include this list of identified items in the conference report, the President can cancel a tax item only if it appears on the list. If the Joint Committee on Taxation finds that the bill contains no limited tax benefits and Congress includes a statement in the conference report that no such items exist, the President is thereby foreclosed from canceling any tax item. However, if Congress does not include a statement either identifying the specific limited tax benefits or declaring that none is contained in the bill, then the President may cancel a tax item if it falls within the definition of a limited tax benefit and the exercise of the President's authority meets the requirements of section 1021 of the Budget Act, as written by this pending legislation. Similarly, the President has such authority to cancel a limited tax benefit contained in legislation that is not adopted as a conference report. However, as I said, the occasion for an exercise of such authority would be rare, indeed.

The pending legislation authorizes conferees, in the above circumstances, to include a statement regarding the provision of limited tax benefits, notwithstanding any precedents or House or Senate rules—such as those rules relating to the proper scope of a conference—that might create a point of order against such inclusion. However, nothing in the pending legislation that authorizes the inclusion of such statements in a conference report limits either House from exercising its constitutional rulemaking authority by requiring, rather than authorizing, the inclusion of such statements.

Mr. President, I thank my colleagues for their attention, and I urge that they join me in supporting this needed legislation. I thank the Chair. I yield the floor.

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas [Mr. BUMPERS], is recognized.

Mr. BUMPERS. Mr. President, the distinguished Senator from West Virginia yielded me 30 minutes, and I am quite sure I will not take that amount of time. I know there are many wishing to speak. It is one of those cases that Mo Udall described one time: "Just about everything that needs to be said has been said but everybody has not said it." So I am going to add my two cents worth.

First of all, the constitutional problems with this bill are insurmountable.

The people listening or watching would be interested in knowing, nowhere in the Constitution is the word veto mentioned. Here is what the Framers said in article I of the Constitution:

Every bill which shall have passed through the House of Representatives and the Senate shall before it become a law be presented to the President of the United States. If he approve he shall sign it but if not he shall return it with his Objections to the House in which it shall have originated.

I have been here 21 years. I am not a constitutional scholar but a country lawyer with a great reverence for the Constitution. I have voted against more constitutional tinkering, I will bet, than any Senator here in the past 21 years. Unhappily, we have Members of this body who think that what Madison and Adams and Franklin did 207 years ago was simply a rough draft for us to finish. This is a classic case of casual tinkering with our Constitution, that sacred document which was put together by the greatest assemblage of minds under one roof in the history of the world.

Do you know what else it is? It is a classic political response to an admitted problem. It is a diversion and a distraction of the American people. It tells them, "Here is a simple answer to spending and deficits."

Nothing could be further from the truth. But people busy trying to make a living and keeping food in the mouths of their children do not have time to examine the complicated details of this proposal.

How did it all start? Where did this idea of a line-item veto originate? I do not know. I had not been here very long when Ronald Reagan was elected President. He had promised to balance the budget, and the first thing you know the deficit was soaring. And 8 years later the national debt had gone from $1 trillion to $3 trillion—tripled in 8 years. I do not want to be hypercritical of President Reagan, but I heard him say time and time again, "I can't spend a nickel that the Congress doesn't appropriate."

What he should have been saying is "The Government cannot spend a dime unless I sign off on it." Despite all of that rhetoric and talk about spending and deficits, from 1980 to 1992, the deficit went from $1 to $4 trillion. President Bush never vetoed an appropriations bill, and President Reagan vetoed one spending bill because it was not big enough—a Defense bill. He vetoed it because it did not have enough money in it.

President Clinton told my friends on the other side of the aisle, "You pass that reconciliation bill, and I am going to veto it." And they passed it, and he vetoed it. He did not veto it because of the amount of money in it. He vetoed it because of its priorities. But at this very moment, conferees all over this Capitol building are meeting trying to craft a resolution about differences on spending and programs. Frankly, not making much headway.

The President wants another $3 billion in education, and that is the sticking point. Let me digress just for a moment on that point and say I saw the most interesting quote yesterday. I think it was the President of Peru who said everything should be subordinate to our children they are just forming their brain cells, their bones, their minds, and bodies, and they do that in a few short years. His point was that if you neglect your children, you have lost a generation of what would otherwise be healthy, productive citizens.

I thought that comment was beautiful, appropriate, and absolutely true.

So our President is simply saying that for everybody we allow to grow up in ignorance, we all pay a price for it. I do not know whether he is going to get the $3 billion or not. We may have another continuing resolution. I think we will. But my point is this. We are negotiating, and we are talking. If I were to say to my friends on the other side of the aisle, "Let us just send this bill over to the President and let him pick and choose what he wants to kick out," I would start a riot right on the floor of the Senate. Nobody wants to do that.

I can remember when this line-item veto thing came up. I did not like it. People would say, "Well, you were a Governor, weren't you?

"Yes, I was Governor."

"Didn't you have a line-item veto?"

"Yes, I had a line-item veto."

And I used it occasionally. Do you know what I used it for? To get legislators in line.

"Senator, you know that vo-tech school for your high school in this bill? That sucker is going to be gone unless you get back down there and change your vote." That is the way I used it. That is the way a President of the United States would use it. It is a lethal weapon in the hands of the executive branch.

Today, at this very moment, the deficit has fallen from a projected $390 billion—that is what it was projected to be. In 1992, we were looking at a 1995 deficit of $390 billion. It is half that amount, and it is already down close to $20 billion from that projection, during just the first 3½ months of this new fiscal year. And it was not done with a line-item veto. It was done by people who were determined to try to get the budget balanced.

Oh, this is a terrible, terrible, lousy idea. It started out as a political diversion for the benefit of a party, to say, "Oh, wouldn't it be great if the President could just take all that pork out of there?" I have seen figures to show if the President utilized the line-item veto to its maximum, it would have about a 1 to 2 percent effect on the total budget. It is unneeded, hopelessly unworkable, and an unprecedented grant of power to the President of the United States. And, yes, it is patently unconstitutional.

This morning we had a vote. Everybody here knows what it was about. It was about the Utah wilderness bill. Even the people of Utah, apparently, did not think much of that bill. It is very controversial. But the bill tracked almost exactly what President Bush recommended when he was President.

Now, if President Bush were sitting in the White House right now and we were voting on cloture, as we did this morning, and the advocates of the Utah wilderness bill needed the nine votes that they did not get this morning, they could go to the White House and the President could call three Republicans and maybe six Democrats and say, "I have been looking at this bill over here. You know that little old research center you have down in your State? My people tell me they do not much like that. They do not think it is needed. They think it is a waste of money. I am inclined to disagree with my people. But, while I have you on the phone, I am a strong proponent of the Utah wilderness bill. Perhaps you and I could sit down. We could talk this over. Maybe you could see my way on the Utah wilderness bill and perhaps I could see your way on that little research center you have in your State."

It is not unheard of. I just got through confessing to you that is what I did when I was Governor. I have fought against 12 aircraft carriers; I thought 10 was adequate. I fought against bringing those old moth-eaten battleships out of mothballs at a cost of about $2 billion. Now they are back in mothballs. I fought and have continued to fight against the space station, which will go down in history as the most outrageous waste of money in the history of the U.S. Government. We finally killed the super collider. On every one of those things, the President was on the other side. And we build a multiple launch rocket in Camden, AR. Are you beginning to get the picture? The President might say, "Well, now, Senator, they tell me you are hot against the space station. I am hot for it. And the Defense Department told me they were thinking about moving the manufacturing of the multiple-launch rockets from Camden, AR, to someplace in Alabama." Do you think that does not get my attention, 750 jobs?

When James Madison and his colleagues in Philadelphia in 1787 were crafting that document that has given this country the oldest democracy in the history of the world, they said the power of the purse will be vested in Congress. They did not say "unless the President decides to tinker with the

figures." They said, "The Congress shall pass appropriation measures." Do you know what they gave us in exchange for that? They said, "You can spend the money, but you also have to raise it." That was supposed to be a nice balance. You have to tax the people. That is not popular. You have to raise the money with taxation before you can spend it, but we are going to give you the power of the purse.

What are we doing? We are saying, "James Madison, you did not know what you were doing. You made a colossal mistake when you crafted our Constitution, so we are going to correct it. We are going to give the President all the powers you gave him in the Constitution, and we are going to take some away from Congress and say you not only have all the executive powers, being Commander in Chief and all those things, we are now going to give you the power of the purse."

Colleagues, do not, 2 years from now, 3 years from now, come on this floor and start crying about this mistake we are about to make. Oh, I know it is popular. You walk in any diner in America and ask, "Do you favor the line-item veto?" You bet. "Do you favor prayer in school?" You bet. "Do you favor a balanced budget amendment to the Constitution?" You bet. Count me in. "Are you against flag burning?" You bet. All those things that have a great emotional impact on people, until they have heard, as Paul Harvey says, "the rest of the story."

We are saying, "Mr. President, stop us before we spend again. We are out of control, and only you can bring us under control."

This is not such a good idea for the President, either. Everybody knows President Clinton and I have served our beloved State of Arkansas together for many, many years. He is my friend. But he is for this. I am sick that I did not get a chance to dissuade him before he said that publicly. But he says he is for a line-item veto, and that is a mild disappointment to me.

But, you know, Mr. President, if he picks out some projects that are the wrong projects and decides to send them back over here and require us, ultimately, to have a two-thirds vote in both Houses in order to pass, he may get in trouble in some State. So what do you think he is going to do? He did not just fall off a watermelon truck. He did not get elected President by being stupid. He is going to be very careful about what he excises out of the appropriations bills for fear he will lose that State.

Right now this Presidential race is heating up. Do you think a President is going to take anything big out of a bill in an election year? In an off year, when he is not running for President, he might pick out a couple of Senators he does not like, who have been particularly obstreperous and have fought against some of his programs, and in a year when he is not up for reelection, he may decide to take some of those projects out of the States of Senators of the other party.

Bear in mind, when we first started talking about term limits, it swept this country like a prairie fire. It is a terrible idea, a lousy idea. I have never been for it and will never be for it. Virtually every Member of this body on the other side of the aisle thought it was wonderful until they got control of Congress, and now you cannot even get it up for a vote.

We kept people's attention diverted just long enough, and the Republicans took control of Congress, and now it is not worth the cost of electricity to have a roll call on term limits. It would be defeated soundly. And when it comes to the line-item veto, they wanted a line-item veto so desperately—in all fairness 19 Democrats voted for this thing, too. What was it about? Take the heat off Ronald Reagan. That is really where it all started.

Then, suddenly, the contract, the famous Contract With America, over in the House of Representatives, it was put in the contract: line-item veto. Not many people in America knew it. Not many people in America cared. So we passed it. How long did it take after Bill Clinton got elected President—something nobody anticipated—we could not even get conferees appointed. Do you know what the bill now says? It will not go into effect until January 1997, with the ardent, divine hope that BOB DOLE will be President January 1, 1997.

Those are the shenanigans that are going on with our sacred Constitution.

Mr. President, another thing that those great minds in Philadelphia did almost 209 years ago is they provided a third branch of Government called the judicial branch. They set up a Supreme Court and such lower courts as Congress may establish. They are independent, and they are named for life. You cannot threaten them. An article in New York Times this morning describes a letter from the Federal judges vigorously opposing this, because if a Federal court renders a decision the President does not like, the next time around, he can just take their money away from them. He cannot take their salaries because you cannot reduce their compensation as long as they are sitting on the Court. You can take their clerks and secretaries away from them; you can cut the air-conditioning off. To give the President that kind of authority over the independent judiciary is the height of irresponsibility.

We not only have an independent judiciary, we just, fortunately, had a very wise man named John Marshall who was Chief Justice of the Supreme Court when the Marbury versus Madison case was argued. John Marshall said: "Somebody has to decide: Are those laws they're passing over there in conformance with this Constitution or not?"

So was born the doctrine of judicial review. Thank God for John Marshall and judicial review and a truly independent judiciary.

So, Mr. President, this bill gives the President a legislative authority to amend bills. He can literally amend our bills. I am terribly uncomfortable knowing this bill is going to sail through here with a big majority, but I am comforted in the fact that I believe the independent judiciary that was set up to stop such foolishness as this will, indeed, do so. So I repose my trust in the Supreme Court of the United States on this issue.

I yield the floor.

Mr. HOLLINGS. Mr. President, when the Senate passed the line-item veto back in March of 1995, taxpayers across the Nation applauded the bipartisan efforts of the 69 Democrats and Republicans that worked shoulder to shoulder for the common good. What a difference a year makes. A year later with Presidential politics well underway, Republican conferees have engaged in an outrageous bait-and-switch operation designed to win political points and push meaningful reforms onto the back burner. Gone is the carefully crafted compromise bill offered on the floor by the distinguished majority leader that Republicans embraced after deep divisions arose in their own ranks regarding the appropriateness of expanding Presidential rescission powers. Instead, conferees have substituted legislation based on the McCain-Coats enhanced rescission proposal—a measure that in 1993 received only 45 votes. In abandoning the Senate approach, the Republican majority has dangerously eroded bipartisan support for the Senate line-item veto and now threatens to snatch defeat from the jaws of victory.

Mr. President, I have been in this fight for too long to accept such circus tricks. For well over the last decade, I have touted the line-item veto as a meaningful way to restore responsibility and accountability to the budget process. Specifically, I have supported the separate enrollment legislative line-item veto which avoids the constitutional objections that are evident in proposals that seek to change the President's constitutionally prescribed veto powers. Under the separate enrollment mechanism, after legislation had passed both Houses of Congress in the same form, the enrolling clerk would enroll each appropriations item, targeted tax benefit, or new entitlement spending provision as a separate bill. In allowing these items to be considered as separate bills, the President would be able to use his existing veto power as defined in the Constitution to reject legislation.

Currently, some 43 States provide their chief executive with some version

of the veto pen. As a Governor of South Carolina, I used the line-item veto to balance four State budgets and win the first AAA credit rating of any Southern State. As a United States Senator, I have worked tirelessly to pass the line-item veto. In 1985, working with former Republican Mack Mattingly of Georgia, we rounded up 58 votes in the Senate for a line-item veto that was the prototype for the Senate passed version. In 1990, I offered similar legislation before the Senate Budget Committee and we adopted my bill by a vote of 13 to 6—the first time ever that the line-item veto had ever been favorably reported out of the Budget Committee. In 1993, Senator BILL BRADLEY and I offered an amendment to the budget reconciliation bill that would have applied the line-item veto to wasteful tax breaks as well as unnecessary spending and garnered 53 votes.

But instead of fighting for the proposal that has been gaining ground, the Republican majority, in resurrecting the enhanced rescission proposal, has backed the wrong horse. First, the conference report's enhanced rescission approach damages the fundamental balance of power between the coordinate branches of Government that is the cornerstone of our constitutional system of Government. Under current law, Presidential rescissions are suggestions. They have no force of law until Congress, as the legislative branch, enacts those changes. However, under new enhanced rescission powers, Presidential spending cuts and loophole closings would have immediate force and thus, affirmatively change the existing law just passed by Congress. To reinstate those provisions, Congress would have to reenact the specific proposals in a rescission disapproval bill, itself subject to a Presidential veto requiring two-thirds of both Houses to override. In my view, giving the President such legislative power amounts to an unconstitutional transfer of legislative power.

Second, the conference report's definition of a limited tax benefit would do little to focus scrutiny on special interest tax breaks. The original Senate bill, like the legislative language in the Republican Contract With America, appropriately recognized that pork is pork, be it of the tax or spending variety. But under the conference report, the definition becomes a tax lawyer's dream. It States that an item will be considered to be a limited tax benefit only if it is a tax benefit that goes to 100 or fewer beneficiaries or a transitional relief provision that accrues to 10 or fewer beneficiaries. This numerical distinction bears little relation to the relative wastefulness of a tax break and, if valid, might just as well apply to appropriations or new entitlement spending. By setting numerical thresholds, Congress does little to close outdated tax loopholes and a lot to encourage the Gucci gulch crowd to abuse the system and make sure that any newly proposed tax break has at least 101 beneficiaries. Moreover, additional restrictions further reduce the scope of qualifying tax benefits and erode the effectiveness of the line-item veto far beyond earlier versions.

Third, the conference report promises to give the President the veto pen, but withholds the ink. If conferees were really concerned about deficit reduction and not politics, why not make the act effective immediately rather that wait until either 1997 or the enactment of a balanced budget plan?

It is a sad truth, that politics are now more important than policy to this crowd. Having brought the line-item veto through the Senate on a bipartisan basis, the Republican majority has now retreated, fearing that a bipartisan line-item veto would leave no one over whom to claim victory. I do not know whether the Republican majority has the votes to prevail today, but ultimately this enhanced rescission approach will be found to be unconstitutional, which will bring us right back to where we started.

As I have stated earlier, it does not have to be that way. The bipartisan proposal that I and others have advocated, and that the Senate adopted last year, allows Congress to consider individual items in enacted legislation as separate bills. The Founding Fathers entrusted our Nation's chief executive with the power of the veto to provide our Government with the benefits of reconsideration and to promote legislative self-control. Unfortunately, over time, congressional construction of legislation has eroded that veto power where disparate spending and tax provisions are bundled in large omnibus bills. As a result, the President is forced to take it or leave it. Thus, the separate enrollment item veto eliminates this all or nothing choice and allows the President to apply his veto power in considering each item on its own merits.

More importantly, by maintaining congressional control over the process, the separate enrollment approach avoids the constitutional infirmities of enhanced rescission bills. As Lawrence Tribe, Constitutional Law Scholar at Harvard University, wrote in a letter to Senator BRADLEY,

> The most promising line-item veto by far is the suggestion . . . that Congress itself begin to treat each appropriation, and each tax measure, as an individual 'bill' to be presented separately to the President for his signature or veto. Such a change could be affected simply, and with no constitutional difficulty, by a temporary alteration in Congressional rules regarding the enrolling and presentment of bills.

Mr. President, this struggle will continue. And I will be willing in the future to work with colleagues on both sides of the aisle, as I have in the past, to develop a responsible, workable, constitutional, and bipartisan legislative line-item veto. I wish that day were today, but with the Presidential races in full swing, I fear once again that politics, not policy, is the driving force behind today's controversy.

Mr. BIDEN. Mr. President, I have for many years now supported a line-item veto that can help to wipe out wasteful special-interest spending items that are added to our appropriations bills.

But I have also cosponsored and supported line-item veto authority for the President that includes the authority to cut special-interest tax breaks, that lose money from the Treasury as surely as any spending program. In many ways they weaken our control over the deficit more than annual spending bills.

Because tax breaks characteristically last for years with little or no review, they can cause more damage than any single item in 1 year's appropriations bill.

The line-item veto we passed out of the Senate last year, the separate enrollment version that I have consistently supported for over a decade, included clear and strong language that put special-interest tax breaks under the same veto power as any pork-barrel spending project.

Unfortunately, the version that came out of conference with the House has so diluted that provision that it may well apply to virally no tax breaks.

That is why I will vote for Senator BYRD's proposal, that restores the clear authority to cut tax breaks as well as special-interest spending.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. What is the time situation, Mr. President?

The PRESIDING OFFICER. The Senator from New Mexico has 86 minutes. The Senator from West Virginia has 4 hours 9 minutes.

Mr. DOMENICI. At this moment, do I understand there is 5 minutes before Senator MOYNIHAN's time?

The PRESIDING OFFICER. That is correct.

Mr. DOMENICI. I yield myself 5 minutes.

Mr. President, before we finally vote to table Senator BYRD's motion, there will be another 15 minutes on our side for discussion and some kind of rejoinder. But I just want to have a 5-minute discussion with the Senators about this issue of the shift in power.

I say to all of them, I have been concerned about that for a long time. I was concerned about it as this line-item veto concept, over the last decade, worked its way through here. But I do not think we ought to leave the record with any inference that Congress is left with no power to respond to a President's use of this item veto authority.

So if, indeed, Mr. President, any President of the United States chooses

to make a mockery of the Senate or the House by arbitrarily exercising this veto, let me suggest the Senate has to confirm his Cabinet. The Senate has to confirm his appointees, and there are hundreds of them. Presidents of the United States need legislation. They work to get elected, and they send us their proposals. Their proposals are their policies and they need to pass Congress to become law.

Let me suggest that any President who would choose to act capriciously and arbitrarily in this line-item veto exercise will do so at his own risk. We are really trying out this item veto—it is an experiment in seeing if we can do a better job of spending the taxpayers' money. I believe Presidents who will arbitrarily and capriciously use that tool take unto themselves the opportunity that will certainly find that Congress will have a chance to a respond arbitrarily toward Presidents.

I am not threatening this, and I am not suggesting a tit-for-tat sort of situation. But the truth of the matter is, there is some serious balance of this power that remains vested in the Congress of the United States, and, indeed, speaking for our institution, the U.S. Senate, this institution, there are plenty of things Presidents need the U.S. Senate to do so they can do their executive work well.

After all, the President is the Executive. He needs Congress to help him so he can use his Executive powers. If he chooses to use them arbitrarily with reference to the line-item veto, then, obviously, he might find an uncooperative Senate, he might find an uncooperative Congress. I do not think that is ever going to occur, but I thought it might be good for the record just to explore that we have not given away all our power, we have not given away all our ability to say "yes" and "no" to Presidents of the United States on a myriad of things that the President needs for his Executive power.

Now, why do I say it that way? Because the contention is that he is taking away some of our prerogatives as legislators in the appropriating process, and if he chooses to do that arbitrarily, then he is, obviously, weakening our power.

I am suggesting we are not without recourse. I think there is going to be a give and take for a few years, but we are not also accepting this concept in perpetuity. We are giving the Executive the line-item veto for 8 years, two full Presidential terms. Then we will have to pass it again or change it.

But, indeed, that event of taking another look to see if it is being used properly or if we should further define things is not left solely within the discretion of Presidents, because this line-item veto sunsets in 8 years and we will have something to say about the continuation of it.

The arguments about constitutionality, the arguments about balance of power are serious. I commend the number of Senators for raising these serious issues in very delicate and sincere ways and I commend them for their concern. Most of all, I commend Senator BYRD for his dedicated explanations here and heretofore. He even wrote a whole book about the Roman senate versus losing its power and compared it in many ways to what he perceives might happen in this regard.

I was privileged to get one of those books. I do not always read books that are given to me, but I read that book. In fact, I told the Senator I had and I thought it was exciting.

He reminded me the successor to Rome was Italy. He reminded me I might even be a descendant of one of those people he wrote about.

Nonetheless, I thought that we ought to get this short 5-minute argument in response, just for our perspective in terms of why we are not fearful, why we do this with open eyes and open minds, hoping that it will help the American people get better Government at less cost. I yield the floor.

The PRESIDING OFFICER (Mr. ABRAHAM). The Senator from New York is recognized.

Mr. MOYNIHAN. Mr. President, I would like to begin by joining the chairman of the Budget Committee in expressing my profound gratitude and admiration to the revered, sometime President pro tempore of the Senate, ROBERT C. BYRD, who has set us a standard which if we fail to meet today, will remain to measure those who come after us.

Mr. BYRD. Mr. President, I thank the distinguished Senator from New York, whose obstinate veracity we all admire. I thank the Senator.

Mr. MOYNIHAN. Mr. President, I rise in the serene confidence that this measure is constitutionally doomed. That speaks to the stability of the American political system, a stability sustained in so many moments of peril by the American judiciary.

By contrast, I find myself once again agitated that a measure of such enormity—I use that word in both of its meanings—comes to us for so frivolous a reason. We are told by the committee of conference that the purpose of the conference report, which is to say the bill, is to promote savings. We are further informed that this is necessary because the American people consistently cite runaway Federal spending and a rising national debt as among the top issues of national concern over the past 15 years alone.

The national debt has quintupled from 1981 and 1996. Our total national debt amounted to just $1 trillion in 1981. Yet today, just 15 years later, that debt exceeds $5 trillion. Those numbers are not quite accurate, but they are approximate and will do.

I have stood on this floor for on to 15 years making the plain point that the increase in debt of the 1980's was an act of policy, designed to reduce the size of the Federal Government by reducing its fiscal resources. Fifteen days into his Presidency, February 5, 1981, President Reagan declared in a television address, "There are always those who told us that taxes can't be cut until spending was reduced. Well, you know, we can lecture our children about extravagance until we run out of voice and breath or we can cut their extravagance by simply reducing their allowance."

"Starve the beast" was the phrase. A huge increase in debt was the result. But at least until now we have not set out to mangle the Constitution to make up for the honest mistakes of one administration.

The separate enrollment bill passed by the Senate last March would have required appropriations bills to be disassembled by the enrolling clerks after passage and presented to the President, one by one, for his signature. During that debate I spoke at some length about its constitutional and practical defects. The legislation before us is somewhat less convoluted. But its effect on the separation of powers between legislative and executive branches would be just as profoundly destabilizing.

I will describe at this point what has been described as the methods, the procedure for cancellation. Once such a cancellation is made, it would ultimately require a two-thirds vote of the Congress to override. The legislation would have us depart dramatically from the procedures set forth in the plain language of the presentment clause in article I, section 7.

> Every Bill which shall have passed the House of Representatives and the Senate, shall, before it becomes a Law, be presented to the President of the United States; If he approve he shall sign it, but if not he shall return it . . .

There is nothing ambiguous about this provision. The Supreme Court declared in INS versus Chadha in 1983 that—I quote the Court:

> It emerges clearly that the prescription for legislative action in Art. I, Section 7, represents the Framers' decision—[the framers' decision, Mr. President]—that the legislative power of the Federal Government be exercised in accord with a single, finely wrought and exhaustively considered procedure.

In Chadha the court held unconstitutional a statute that permitted either House of Congress by resolution to invalidate decisions of the executive branch as to whether certain aliens could be deported. This so-called legislative veto, according to the Court, impermissibly departed from the explicit procedures set forth in article I, which the court said were "integral parts of the constitutional design for the separation of powers."

And 3 years later, in Bowsher versus Synar, the Supreme Court was equally

scrupulous in requiring strict adherence to the procedures set forth in article I. In Bowsher, the Court invalidated the provision of the Gramm-Rudman-Hollings Deficit Control Act, giving the Comptroller General of the United States authority to execute spending reductions under the act. The Court held that this violated the separation of powers because it vested an executive branch function in the Comptroller General, who is a legislative branch official. "Underlying both decisions," the Congressional Research Service has written, "was the premise . . . that the powers delegated to the three Branches are functionally identifiable, distinct, and definable."

There is no ambiguity about the meaning of the requirements of article I, section 7, nor is there any uncertainty about why the framers vested the power of the purse in Congress. Madison in Federalist No. 58:

> This power over the purse may, in fact, be regarded as the most complete and effectual weapon with which any constitution can arm the immediate representatives of the people, for obtaining a redress of every grievance, and for carrying into effect every just and salutary measure.

Until the Supreme Court considers this bill—and it surely will—we will not have a definitive constitutional determination. But some of the Nation's leading constitutional scholars have already concluded that this legislation will be struck down by the courts when it reaches them.

Michael J. Gerhardt, a sometime professor of law at Cornell University, and now professor of law at the College of William and Mary, has written me to say, that in his opinion—I quote—"its constitutionality is plainly doomed."

He argues first that this legislation violates article I, section 7, in that it permits enactment of a bill that has never been voted on by Congress as such. That is, by exercising its power to cancel any part of the bill after signing it, the President would be creating a new law in a form never considered by Congress. That is plainly unconstitutional.

Professor Gerhardt argues that granting the President power to reconfigure bills passed by Congress is a legislative function which may not be delegated to the Executive. Finally, he notes that even if Congress could delegate the proposed veto power to the President, "Congress lacks the authority to restrict Presidential authority by limiting the grounds a President may consider as appropriate for vetoing something."

In his treatise, "American Constitutional Law," Laurence H. Tribe of the Harvard Law School writes that—

> . . . empowering the President to veto appropriations bills line by line would profoundly alter the Constitution's balance of power. The President would be free not only to nullify new congressional spending initiatives and priorities, but to wipe out previously enacted programs that receive their funding through the annual appropriations process.

Professor Tribe goes on to say:

> Congress, which the Constitution makes the master of the public purse, would be demoted to the role of giving fiscal advice that the executive would be free to disregard. The Framers granted the President no such special veto over appropriations bills, despite their awareness that the insistence of colonial assemblies that their spending bills could not be amended once they passed the lower house had greatly enhanced the growth of legislative power.

Yesterday, we asked Professor Tribe for his opinion on the legislation before the Senate today. He graciously telephoned our office this morning to say that after studying the conference report, he has concluded as follows. This is Laurence H. Tribe this morning:

> This is a direct attempt to circumvent the constitutional prohibition against legislative vetoes, and its delegation of power to the President clearly fails to meet the requisites of article I, section 7. Furthermore, nothing in my letter of January 13, 1993 regarding "separate enrollment" has any bearing on the mechanism that would be enacted here.

Professor Tribe refers to a letter that was quoted several times in last year's debate in which he discussed the possibility that separate enrollment might be constitutional. He emphasizes now that his 1993 letter should not be interpreted to indicate any support for this legislation, which he concludes is certainly not constitutional. Those are the constitutional considerations briefly stated.

Now to an additional subject that is of particular interest to me as ranking member and sometime chairman of the Committee on Finance, I direct the attention of the Senate to the provision of section 1021(A)(3) of this legislation dealing with limited tax benefits. This new language appears to be a response to the argument, raised in the debate last year, that spending and tax benefits should be treated equally under a line-item veto.

The provision purports to subject tax benefits to the same treatment under the line-item veto as other spending, yet the bill's application to limited tax benefits would have very little real effect, save, as I believe, pernicious ones.

Under the proposal, "limited tax benefit" is defined as any tax provision identified by the Joint Committee on Taxation as, (first), a revenue-losing provision; (second), having 100 or fewer beneficiaries in any fiscal year; and (third), not within a number of very broad exceptions designed to exempt from the line-item veto any tax provision under which "all similarly situated persons receive the same treatment." Any transition rule that the Joint Tax Committee estimates will benefit 10 or fewer taxpayers in any fiscal year would also be defined as a limited tax benefit.

This definition is so narrowly drawn that it will be almost effortlessly circumvented, for it is surely simple enough—and, Senators, as a member of the Finance Committee for 20 years, let me assure you, there is no problem expanding the number of beneficiaries from 10 to 100. It is very readily done and perhaps too often so.

To the extent the drafters are unwilling or unable to manipulate this numerical standard, one of the "similarly situated" exceptions often will be available to avoid the limited tax benefit designation. By way of an example, the conference report states that a provision that benefits only automobile manufacturers would not be treated as a limited tax benefit because "the benefit is available to anyone who chooses to engage in the activity." Thus, a provision that benefits only Ford Motor Co. but is drafted in a manner potentially open to General Motors and Chrysler would apparently escape the line-item veto.

The tax-writing committees often and properly find that tax relief may be justified in narrow circumstances. Such narrow relief is and ought to be granted sparingly, yet these features of the bill create a perverse incentive to craft broader tax benefits than necessary in order to avoid application of the line-item veto. This is surely counterproductive.

Second, while seemingly objective on its face, the definition includes several elements that are seriously ambiguous, raising a number of questions. For example, what does it mean to be "similarly situated?" Can a provision be drafted to benefit all baseball team owners to the exclusion of other sport franchises? How does one determine who are the beneficiaries of a particular provision? Would the football coaches pension provision—and, yes, there was one, in the vetoed Balanced Budget Act of 1995—be deemed to benefit only the pension plan itself or the more than 100 coach participants? I could go on longer than the Senate would be interested or perhaps even edified to hear.

There is a final point, sir. By vesting in the Joint Committee on Taxation the exclusive authority—not subject to judicial review, not subject to debate on the Senate floor—the exclusive authority to make these determinations, this legislation would effectively grant great additional power in drafting tax legislation to the chairman of the Senate Committee on Finance and the chairman of the House Committee on Ways and Means—those two persons to the exclusion, I fear, of the rest of the Congress, the Members of either body.

While the Joint Tax Committee may indeed be the best institutional decisionmaker on technical tax issues, the decision of what constitutes a limited tax benefit can and no doubt would be quite political. The chairmen of the two tax-writing committees could exert pressure on the Joint Tax Committee to exclude favored items from

application of the bill. Conversely, the chairmen would be granted potentially undue influence over other Members' legislative items with the implicit threat that such items would be deemed subject to the line-item veto. In his letter to which I referred earlier, Professor Gerhardt expresses similar concerns about this provision.

Now, I mentioned that the purpose of this legislation, according to the conference committee, is to limit runaway Federal spending and thereby reduce the debt. I am here to report—and I hope someone will hear—that, in point of fact, the era of runaway spending is behind us.

The Federal budget is in primary surplus for the first time since the 1960's—for the first time. This came about largely as a consequence of the Omnibus Budget Reconciliation Act of 1993, which provided for deficit reduction of some $500 billion—the largest deficit reduction measure in the half century since the wartime-incurred deficit was reduced following World War II. Such was the size of the reductions that interest rates fell sharply, and the deficit premium, as it had been called, in the markets dropped, and another $100 billion was saved. And we are, at long last, moving our deficits down—down to 2 percent of gross domestic product this year. The difference between the present deficit and a true surplus is merely the debt service on the debt accumulated in those previous 15 years. If we had the debt of the 1970's, we would be in surplus today.

The sequence whereby that happened was the surpluses of the Kennedy-Johnson era became neutral in the Nixon administration, and the recessions and inflation of the Ford and Carter administrations produced small primary deficits. Then came the 1980's.

Then came 1993 and, among other things, I stand here saying—happily, to an almost empty Chamber—we had the largest tax increase in history, and I was chairman of the Finance Committee. It was not forgotten entirely in New York when I came back from the election. How did we do this? Very simply, we did it by compromise. We did it by the kind of compromise the Framers anticipated. The Framers said they did not create a system of government which presumed virtue. They took interest as a given and virtue as something to be acquired. And the offsetting principles, as Madison put it, to make up for the defect of better motives. We made all manner of compromises in that legislation, and we would not have our deficit down to 2 percent of GDP today had we not.

For example, the business meal tax deduction was reduced from 80 to 50 percent. That was something a chairman from New York could offer and say, "Here, I am willing to do this." The restaurant owners said, "What about us?" They were given a tax credit for the FICA tax they are required to pay on their employees' tips. Well, it was a compromise. I could go on and on about that. Gasoline and diesel fuels were raised 4.3 cents per gallon. Oh, Mr. President, do I remember that 0.3 cents—1 week in a room on the third floor without windows of this Capitol. But we got that. How? Airlines were given a 2-year exemption from the increased tax. We also took away tax benefits previously accorded exporters of raw timber.

Mr. President, these compromises make major legislation agreeable and effective. Supposing a member with which a chairman worked were asked to make a concession in return for an accommodation; supposing that member had to think: The minute this bill becomes law, that chairman will go to that President and say, "Take out that provision that was made for the Senator from Louisiana, because it was only done to get your bill by, Mr. President." You will not have that which makes legislation possible. You will not have that spirit of trust, which performance reinforces and creates the stability of our institutions. For if there is no trust, there will be no compromise, and if there is no compromise, there will be no Government—no stable Government.

I sometimes think of this simple fact. Mr. President, there are seven nations on Earth that both existed in 1914 and have not had their form of government changed by violence since 1914. There are two since 1800, and we are one of them. We are one of the seven and we are one of the two. That stability did not come easily, nor should it be assumed a given. That stability rests on the rock bed of the Constitution, and we do a very poor service to that stability when we begin to dynamite away parts of that rock bed.

I will close with simply one statement, which we are all required on our oaths to observe. The Judicial Conference of the United States has written to us to say: Do not do this. We are the least harmless branch—again, remember Madison—and we cannot make you do it. I will quote them:

> The line-item veto authority poses a threat to the independence of the judiciary because a President could put pressure on the courts or retaliate against the judges by vetoing items in judicial appropriation bills.

This is a profound responsibility which—in the end, we will turn to the courts to see sustained. I believe this is a serious concern. I hope that it will be attended to. Mr. President, I thank the Senate for its careful, courteous attention. I thank Senator DOMENICI. I thank, with special gratitude, Senator BYRD.

I will also, finally, ask unanimous consent that the letter from Prof. Michael Gerhardt, along with two letters from the Judicial Conference of the United States, be printed in the RECORD at this point.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

COLLEGE OF WILLIAM & MARY
SCHOOL OF LAW,
Williamsburg, VA, March 27, 1996.

Hon. DANIEL PATRICK MOYNIHAN,
U.S. Senate,
Washington, DC.

DEAR SENATOR MOYNIHAN: I appreciate the chance to share with you my opinion on the constitutionality of the Line Item Veto Act of 1996, as set forth in the Conference Report, dated March 4, 1996 (hereinafter "the Republican draft" or "the Conference Report"). In this letter, I focus only on a few of the more serious problems with the Republican Draft and do not purport to analyze exhaustively its constitutionality. Even so, I am of the view that, given just the few significant flaws in the Conference Report that I identify and explain below, its constitutionality is plainly doomed.

Describing how the law works is crucial for identifying and understanding the constitutional and practical problems posed by some of its major provisions. As I read it, the critical delegation made by the Republican draft to the President is the authority to "cancel" all or any part of "discretionary budget authority," "and item of direct spending," or "any targeted tax benefit." Presumably, a presidential cancellation pursuant to the act has the effect of nullifying a portion of a budgetary or appropriations bill unless a majority of each chamber of Congress agrees within a specified time period to pass a "disapproval bill" specifying its intention to reauthorize the particular item cancelled by the President. The President may veto the disapproval bill, which can then become law only if two-thirds of each chamber of Congress agree to override his veto.

In my opinion, there are three fatal constitutional problems with the procedures outlined above. First, the law effectively allows any portion of a bill enacted by Congress that the President signs into law but does not cancel to become law, in spite of the fact that Congress will have never voted on it as such. This kind of lawmaking by the President clearly violates Article I, section 1, which grants "[a]ll legislative powers" to Congress, and Article I, section 7, which grants to Congress alone the discretion to package bills as it sees fit.

Article I states further that the President's veto power applies to "every Bill . . ., Every Order, Resolution or Vote to which the Concurrence of the Senate and House of Representatives may be necessary."[1] This means that the President may wield his veto on the legislative product only, as Harvard Law Professor Laurence Tribe maintains in his treatise, "in the form in which Congress has chosen to send it to the White House: be the bill small or large, its concerns focused or diffuse, its form particular or omnibus, the President must accept or reject the entire thing, swallowing the bitter with the sweet."[2] Tribe's subsequent change of position is of no consequence, because he was right in his initial understanding of the constitutional dynamics of a statutorily created line-item veto mechanism. The fact that the President has signed the law as enacted is irrelevant, because a law is valid only if it takes effect in the precise configuration approved by the Congress. The President does not have the authority to put into effect as a law only part of what Congress has passed as such. The particular form a bill should

Footnotes at end of letter.

have as a law is, as the Supreme Court has said, the "kind of decision that can be implemented only in accordance with the procedures set out in Article I."[3]

The Conference Report would enable the President to make affirmative budgetary choices that the framers definitely wanted to preclude him from making. The framers deliberately chose to place the power of the purse outside of the executive because they feared the consequences of centralizing the powers of the purse and the sword. As James Madison wrote in the Federalist No. 58, "This power of the purse may, in fact, be regarded as the most complete and effectual weapon with which any constitution can arm the immediate representatives of the people."[4] Every Congress (until perhaps this most recent one)—as well as all of the early presidents, for that matter—has shared the understandings that only the Congress has the authority to decide how to package legislation, that this authority is a crucial component of checks and balances, and that the President's veto authority is strictly a negative power that enables him to strike down but not to rewrite whatever a majority of Congress has sent to him as a bill.

The wisdom of leaving the power of the purse in Congress, as the framers desired as a means of checking the executive, is buttressed by the recognition-that pork barrel appropriations—the evil sought to be eliminated by the Republican draft—are just unattractive examples of legislating for diverse interests, which is the very stuff of representative government. Apportioning the public fisc in a large and diverse nation requires degrees of coordination and compromise that the framers left to the initial discretion of Congress to be undone only as specified in Article I.

The second constitutional defect with the Conference Report's basic procedures involves the legitimacy of the cancelling authority given to the President. Proponents of this cancellation power defend it as a legitimate delegation of congressional authority to the President; however, this argument rests on a misunderstanding of the relevant constitutional doctrine. This misunderstanding is reflected in the CRS Report, which claims erroneously that "while the [Supreme] Court has used a balancing test in some separation of powers cases, it has never chosen to do so in delegation cases."[5] The latter assertion is simply wrong.

In fact, the Supreme Court has issued two lines of cases on congressional delegations. The first, which is not implicated by the Conference Report, involves delegations from Congress to administrative agencies or inferior bodies. The Court tens to evaluate such delegations under a "functionalist" approach to separation of powers under which the Court balances the competing concerns or interests at stake to ensure that the core function of a branch is not frustrated. For example, the Court used this approach in *Morrison* v. *Olson*[6] to uphold the Independent Counsel Act in which the Congress had delegated the executive function of criminal prosecution to an individual not formally associated with any of the three branches. Similarly in *Mistretta* v. *United States*,[7] the Court upheld the constitutionality of the composition and lawmaking function of the United States Sentencing Commission, at least three of whose members are required by statute to be lower court judges and to which the Congress delegated the authorities to promulgate, review, and revise sentence-determinative guidelines.

The Republican Draft clearly violates, however, the second line of Supreme Court decision on congressional delegations. These cases involve delegations from Congress to the titular head of a branch, such as one of its chambers or the President. In these cases, the Court has not used a balancing test; rather, the Court has used a "formalist" approach that treats the Constitution as granting to each branch distinct powers and setting forth the maximum degree to which the branches may share those powers. A formalist approach to separation of powers treats the test of the Constitution and the intent of it drafters as controlling and changed circumstances and broader policy outcomes as irrelevant to constitutional outcomes. In recent years, the Court has used this approach to strike down the legislative veto in Chadha because it would have allowed one House to take legislative action without complying with the procedures set forth in Article I; to hold in *Bowsher* v. *Synar*[8] that Congress may not delegate executive budgetary functions to an official over whom Congress has removal power; and to strike down in *Washington Airports Authority* v. *Citizens for the Abatement of Aircraft Noise*[9] the creation of a Board of Review partially composed of members of Congress with executive veto-like power over the decisions of the directors of the Metropolitan Washington Airports Authority.

Undoubtedly, the Court would follow a formalist approach in striking down the Republican draft. For one thing, the Court would not be able to escape applying the logic of *Bowsher* v. *Synar* to the proposed law. Whereas the crucial problem in Bowsher was Congress' attempt to authorize the exercise of certain executive authority by a legislative agent—the Comptroller General, here the problem is that the President would plainly be exercising what everyone agrees is legislative authority—the discretion to determine the particular configuration of a bill that will become law. Even the law's proponents admit it allows the President to exercise legislative authority, albeit in their view delegated to him by Congress.

Formalist analysis would be appropriate in evaluating such a delegation's constitutionality because it would be the kind about which the framers were most concerned; the checks and balances set forth in the Constitution deal directly with how the titular heads of each branch should interrelate. Hence, the Court has opted for a formalist approach to deal with delegations between the branches at their respective apexes to preclude one branch from aggrandizing itself at the expense of another. The Conference Report would clearly undermine the balance of power between the branches at the top, because it would eliminate the Congress's primacy in the budget area and would unravel the framers' judgment to restrict the President's role in the lawmaking process to a qualified negative rather than to have him exercise an affirmative power to redraft or reconfigure a bill.

Even if the Court used a functionalist approach to evaluate the constitutionality of the Republican draft, it would strike down the proposed law. The reason is that the law establishes an uneven playing field for the President and Congress on budgetary matters. In so doing, it profoundly alters the balance of power set forth in the Constitution. As Professor Tribe recognizes further in his treatise, such a scheme "would enable the President to nullify new congressional spending initiatives and priorities as well as to wipe out previously enacted programs that receive their funding through the annual appropriations process. Congress, which the Constitution makes the master of the public purse, would be demoted to the role of giving fiscal advice that the President would be effectively free to disregard.[10] Once again Tribe's subsequent change of position does not undermine the soundness of his initial reasoning, for the historical record is clear that the framers, as Tribe had recognized himself, never intended nor tried to grant the President any "special veto power over appropriation bills, despite their awareness that the insistence of colonial assemblies that their spending bills could not be amended once they had passed the lower house had greatly enhanced the growth of legislative power."[11]

An example should illustrate the problematic features of the proposed cancellation mechanism. Suppose that 55% of Congress passes a law, including expenditures for a new Veterans Administration hospital in New York. The President decides he would prefer for Congress not to spend any federal money on this project, so after signing the bill into law, he exercises his authority to cancel the allocations made for the new facility. Again 55% of the Congress agrees to make this expenditure but this time through the passage of a disapproval bill. The President vetoes the latter, and Congress fails to override his veto, with only 55% of Congress (yet again) voting for the appropriation. The net effect is that the President would get to refuse to spend money 55% of the Congress will have thrice said it wanted to spend. Thus, the Conference Report would require Congress to vote as many as three separate times to fund something while assuming in the process an increasingly defensive posture vis-a-vis the President. In other words, the Republican draft allows the President to force Congress to go through two majority votes—the second of which is much more difficult to attain because it would have to be in favor of a specific expenditure that is now severed from the other items of the compromise giving rise to its inclusion in the first place—and one supermajority vote in order to put into law a particular expenditure.

A third constitutional problem with the Conference Report involves the constraints it tries to place on the President's cancellation authority. The latter is for all intents and purposes a veto. It has the effect of a veto because it forces Congress in the midst of the lawmaking process into repassing something as a bill that ultimately must carry a supermajority of each chamber in order to become law. Nevertheless, the Conference Report attempts to constrain the reasons the President may have for cancelling some part of a budget or appropriations bill. Just as Congress lacks the authority through legislation to enhance presidential authority in the lawmaking process by empowering him to reconfigure what Congress has passed as a bill into some other form prior to its becoming a law, Congress lacks the authority to restrict presidential authority by limiting the grounds a president may consider as appropriate for vetoing something.

Even apart from whatever constitutional problems the Conference Report may have, it poses two serious practical problems. First, the possibility for substantial judicial review of presidential or congressional compliance with the Republican draft is quite high. For example, it seems likely that lawsuits could be brought challenging whether the President has appropriately considered, as the act directs, such things as "the legislative history" or "any specific sources of information referenced in such law or, in the absence of

specific sources of information, the best available information" or "the specific definitions contained" within it. At the very least, the bill requires that the President make some showing that he has done these things to the satisfaction of members of Congress (or at least those disposed to bring a lawsuit in the absence of such a showing.) There are also numerous procedures OMB and each house of Congress must follow that, presumably, could become the basis for judicial challenge if not done completely to the satisfaction of partisan foes in the other branch. In addition, there may be some questions as whether the President has in fact complied with Congress' or the Republican draft's understanding of the kinds of items he may cancel, such as a "targeted tax benefit."

The likely prospect of substantial judicial interference with the budgetary process is unsettling. The framers deliberately excluded the unselected federal judiciary from exercising any kind of decisive role in budgetary negotiations or deliberations. The Republican draft does not ensure that this exclusion will always be honored. The framers wanted all of the key decisionmakers within budget negotiations to be politically accountable; any budgetary impasse between the President and Congress that the federal courts help to resolve in favor of one or the other will simply diminish even further the public's confidence that the political process is the place to turn for answers to such deadlocks.

Another practical difficulty is with the authorization made by the Republican draft to the Joint Committee on Taxation to render an official opinion, which may become a part of a budgetary or appropriations measure, on whether it "contains any targeted tax benefit." The bill precludes the House or the Senate from taking issue with the judgment of the Joint Committee's finding. As a practical matter, this empowers a small number of members of Congress to impose their will on the whole body. Although this might have the salutary effect of expediting the passage of the covered legislation, it forces those members of Congress who disagree with the Joint Committee to express their disagreement only by voting down rather than by trying to amend a bill that they otherwise would support.

In summary, I believe that the Republican draft conflicts with the plain language, structure, and traditional understanding of the lawmaking procedure set forth in Article I; relevant Supreme Court doctrine; and the delicate balance of power between Congress and the President on budget matters. I am confident that the Supreme Court ultimately would strike the bill down if it were passed by Congress and signed into law by the President.

It has been a privilege for me to share my opinions about the Conference Report with you. If you have any other questions or need any further analysis, please do not hesitate to let me know.

Very truly yours,

MICHAEL J. GERHARDT,
Professor of Law.

FOOTNOTES

[1] U.S. Const. art. I, section 7, cls. 2, 3.

[2] Laurence Tribe, American Constitutional Law 265 (2d ed. 1988).

[3] *I.N.S.* v. *Chada*, 462 U.S. 919, 954 (1982).

[4] The Federalist No. 58 at 300 (J. Madison) (M. Beloff ed. 1987).

[5] Congressional Research Service, Memorandum Regarding Constitutional Questions Respecting Bill to Grant President Enhanced Rescission Authority over Appropriations and Targeted Tax Benefits, at 16 (January 9, 1995).

[6] 487 U.S. 654, 693 (1988).

[7] 488 U.S. 361 (1989).

[8] 478 U.S. 714 (1986).

[9] 111 S. Ct. 2298 (1991).

[10] L. Tribe, supra note 2, at 267 (footnotes omitted).

[11] Id. at 267 (citing Note, Is a Presidential Item Veto Constitutional? 96 Yale L.J. 838, 841–44 (1987)).

JUDICIAL CONFERENCE OF THE,
UNITED STATES,
Washington, DC, March 15, 1996.

Hon. NEWT GINGRICH,
Speaker, U.S. House of Representatives, Capitol Building, Washington, DC.

Hon. ROBERT J. DOLE,
Majority Leader, U.S. Senate, Capitol Building, Washington, DC.

DEAR MR. SPEAKER AND MR. MAJORITY LEADER: I understand an agreement has been reached between Republican negotiators on "line-item veto" legislation. Although we have not seen a draft of the agreement to determine the extent to which the Judiciary might be affected, I did not want to delay communicating with you. The Judiciary had concerns over some previous versions of the legislation that were considered by the House and Senate. These concerns could also apply to the version on which agreement was just reached, depending on how it is drafted.

The Judiciary believes there may be constitutional implications if the President is given independent authority to make line-item vetoes of its appropriations acts. The doctrine of separation of powers recognizes the vital importance of protecting the Judiciary against interference from any President.

Protection of the Judiciary by Congress against Presidential power and potential intervention is also evident in the Budget and Accounting Act of 1921, which ensures that the financial affairs of the Judiciary be insulated from political influence by the President and his staff. Prior to this Act, the Judiciary's budget was controlled by the Executive Branch. Now, by law, requests for judicial branch appropriations must be submitted to the President by the Judiciary, but must be transmitted by him to Congress "without change".

This protection needs to endure. Control of the Judiciary's budget rightly belongs to the Congress and not the Executive Branch, particularly in light of the fact that the United States, almost always through the Executive Branch, has more lawsuits in the Federal courts than any other litigant. The integrity and fairness of our Federal Courts should not be endangered by the potential of Executive Branch political influence.

In whatever agreement is ultimately reached by the conference committee, on behalf of the Judicial Conference of the United States, I urge that the independence of the Third Branch of Government be preserved.

I appreciate your consideration and we stand ready to assist you in any way necessary.

Sincerely,

LEONIDAS RALPH MECHAM,
Secretary.

JUDICIAL CONFERENCE OF THE
UNITED STATES,
Washington, DC, March 21, 1995.

Hon. ORRIN G. HATCH,
Chairman, Committee on the Judiciary, U.S. Senate, Dirksen Office Building, Washington, DC.

DEAR SENATOR HATCH: On behalf of the Judicial Conference of the United States, I am pleased to respond to your request for the Judiciary's views on an amendment to the Dole substitute to S. 4. The amendment would require all appropriations of the Judiciary to be enrolled in one bill.

The Judiciary believes the amendment is critical to ensure the independence of the third branch. Without the amendment, each appropriated line item within the Judiciary would be a separate bill. The Executive Branch would then have the power to pick and choose which activities of the Judiciary it did and did not want funded. Such power over individual items raises the possibility that the Executive could seek to influence the outcome of litigation by selective vetoes or could try to retaliate for unwelcome decisions. The Executive is the major litigator in the federal courts.

The doctrine of separation of powers recognizes the extreme importance of protecting the Judiciary against inappropriate Executive Branch interference. This is reflected in the Constitution, which protects the tenure and salaries of Article III judges. It is also evident in the Budget and Accounting Act of 1921, which ensures that the financial affairs of the Judiciary be insulated from political influence by the President and his staff. Prior to this Act, the Judiciary's budget was controlled by the Executive Branch. Now, by law, requests for Judicial Branch appropriations must be submitted to the President and transmitted by him to Congress "without change". This protection needs to endure. Control of the Judiciary's budget rightly belongs to the Congress and not the Executive Branch. The Judicial Branch budget has never been the source of claims of "pork barrel" appropriations in Congress.

I appreciate having the opportunity to comment on this legislation and your amendment that will ensure that the integrity and fairness of our Federal Courts are not endangered by the potential of Executive Branch political influence.

We do not want our citizens to ever think that they are back in the position of the Colonists in 1776 who separated from England in part because of their perception, as Jefferson stated in the Declaration of Independence, that the Executive "has obstructed the administration of justice, by refusing his assent to laws for establishing judiciary powers. He has made judges dependent on his will alone, for the tenure of their offices, and the amount and payment of their salaries."

Sincerely,

GILBERT S. MERRITT,
Chairman.

Mr. MOYNIHAN. Mr. President, I believe I have two moments. I yield them to whichever Senator wishes to use them. I thank the Chair.

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

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

Mr. DOMENICI. Mr. President, I note that the minority leader is on the floor. I understand a vote is scheduled for 5:45, and we have 15 minutes. Is that the parliamentary situation?

The PRESIDING OFFICER. Yes.

Mr. DOMENICI. Does the Senator desire to use his leader time?

Mr. DASCHLE. That is fine.

Mr. DOMENICI. Can we do it even though time is set?

Mr. DASCHLE. We can do that.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the distinguished minority leader be permitted to speak for 10 minutes, after which the 15 minutes that I have follow, and after that we proceed to a vote on or in relation to the Byrd amendment.

The PRESIDING OFFICER. Is there objection?

Mr. STEVENS. Reserving the right to object.

Mr. DASCHLE. Mr. President, I would be more than happy to keep my remarks to fewer than 5 minutes. So perhaps if it would work, we can still try to keep the time. I know a lot of people are scheduling their time for the vote. I will be happy to limit my remarks to no more than 5 minutes, and perhaps even less.

Mr. DOMENICI. Mr. President, I yield up to 5 minutes of my 15 minutes to the distinguished minority leader so we keep the time as agreed.

Mr. DASCHLE. Mr. President, I thank the manager of the bill. Mr. President, let me begin by acknowledging the masterful presentation made by the distinguished Senator from West Virginia. No one knows this issue better than he does. No one has studied constitutional balance of power more carefully than has he. He has raised issues today of constitutionality and the balance of power with a clarity of vision and a depth of knowledge that every Senator ought to carefully consider.

His motion certainly would lead to a more thoughtful approach, in my view. The Byrd motion is one that should be supported by all Members of the Senate. It instructs the conferees to report a bill similar to S. 14, a bipartisan bill that was debated very carefully on the Senate floor a little over one year ago. It was sponsored by Senators DOMENICI and EXON and cosponsored by the majority leader, and reported out of the Budget Committee and the Governmental Affairs Committee. It does what the distinguished ranking member of the Appropriations Committee has indicated it would do—maintain the proper relationship between the role of Congress as well as the responsibilities of the President.

I believe it has three major advantages, and I want to touch very briefly on each of these advantages.

First, this plan provides an equal opportunity for the President to examine tax expenditures as well as appropriations measures. The Republican plan, constituted in the conference report, does not allow the President to review all of the special-interest tax breaks that are all too often considered on the Senate floor. It applies only to those that benefit fewer than 100 taxpayers. Frankly, there are not many provisions that apply to 100 or fewer taxpayers. The Joint Tax Committee determines which breaks can be canceled, and I believe that in many cases that alone ought to give us pause. Under S. 14, the President has the opportunity to more broadly apply the powers to examine all expenditures in a more careful way, not only on appropriations bills but also with regard to tax expenditures.

Second, we protect majority rule, which is a central principle of democracy. S. 14 requires a congressional majority to approve the cuts proposed by the President. Under the conference report, the President can prevail with the support of only one-third of either House of Congress. So, clearly, we abrogate the concept of majority rule. We certainly would not permit a minority to hold a majority hostage in cases like this.

Clearly, S. 14 is constitutional, as the distinguished ranking member and former chairman of the Appropriations Committee has so eloquently described in many ways this afternoon. He has enlightened us as to the problems with the conference report. The alternative that he presents avoids these problems by requiring Congress to vote to approve Presidential rescissions. Congress should not approve a bill subject to court challenge, and, clearly, the conference report will be challenged in court.

So, I believe, Mr. President, the motion of the distinguished Senator from West Virginia offers the best of both worlds. It gives the opportunity for the President to apply additional scrutiny to items in legislation which may be called into question. It gives him the opportunity to apply that scrutiny both to tax expenditures as well as appropriated spending. It allows us to retain majority rule and preserves the balance of power. It avoids constitutional questions that will certainly be raised as soon as this legislation would be enacted, and it is effective immediately.

We do not have to wait for the end of this year. We do not have to assume that we have to wait until the next term of the President to allow the power to be utilized. It allows him to do it now. We can look between now and the end of the year at the ways in which this might be utilized. This will allow us more opportunity to examine whether or not this approach is an appropriate way with which to assure additional scrutiny of spending and tax breaks in the future.

So I applaud the work of the Senator from West Virginia and others who have brought us this opportunity. I think it is important. It is critical that we carefully consider the constitutional questions that the distinguished Senator from West Virginia has raised.

I hope our colleagues will support this motion to recommit.

I yield the floor.

Mr. DOMENICI. Mr. President, with the minority leader on the floor, I wonder if it might be in order for me to ask unanimous consent that the yeas and nays be ordered on the Domenici motion to table the underlying amendment. I ask unanimous consent for that.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. DOMENICI. I yield 5 minutes of my time to Senator STEVENS.

The PRESIDING OFFICER. The Senator from Alaska is recognized.

Mr. STEVENS. Mr. President, I call the attention of the Senate to the very basic provision in this bill. It says in section 1021(a), "Notwithstanding the provisions of part A and B, and subject to this part, the President may, with respect to any bill or joint resolution that has been signed into law pursuant to article I, section 7, of the Constitution of the United States * * *" take the action under this bill.

What we in fact under this bill are doing is giving the President the authority, in effect, to impound moneys that we have given him authority to spend. And we have the right to take that notification of any cancellation that he sends to us and send him, in effect, another bill saying we intend for you to spend those moneys. He may veto that second bill if he wants. But in the first instance, we are not giving the President any authority to change the law. We are telling him he can cancel funds provided only if the cancellation would reduce the Federal budget deficit, not impair essential Government functions, and not harm the national interest.

The issue here is whether the Congress has the right to delegate to the President the authority to not spend money. This is not a violation of separation of powers or a violation of the presentation clause of the Constitution. We have given the President, under this bill, limited authority to cancel—that is, to not spend—certain moneys Congress otherwise would have directed the President to spend.

I want to make sure people understand the way this works. A bill is sent to the President, which the President may sign, reject, or let it take effect without his signature under article I, section 7, of the Constitution. If, and only if, the President signs the bill into law, then under this bill the President is given the delegated authority from Congress not to spend certain portions of the money that he cancels according to the provisions of the bill.

I have heard the concept of many of the Senators, but I want to make sure that we all understand this is no different from giving the President the discretion not to enforce a particular

law under certain circumstances or to decide, when based on specific criteria, to impose or to lift an import duty. We have done that. This conference report has no Chadha problems, based on the Supreme Court decision in the Chadha case. Congress is not going to be given the power to legislatively overturn a Presidential decision with regard to a veto or implementation of a law.

We have the power to take action for the second time after the President uses his authority under this bill to impound or cancel moneys and, in effect, put them into the track where they will reduce the deficit. We can pass a second bill. The President would veto that. He has no authority under this bill to deal with that second proposal. If we pass such a bill and direct the President to spend money he otherwise thought he should cancel, he has the authority to veto that bill, and we have the authority to override his veto; in effect, to mandate him to spend the money as we have said to do so on two occasions.

But I urge Senators not to refer to this as some action to give the President the authority to change a bill before it becomes law or to change in any way legislation that does not affect dollars. He only has the authority to, in effect, cancel the spending of dollars under specific circumstances that, while the circumstances are clearly limited, the scope of the authority is very broad.

Mr. DOMENICI. Mr. President, first, let me add to my brief comments a while ago about Presidents who might abuse this power because a lot has been said about how this might change the balance of power.

I remind every Senator that there is nothing in this bill that says we have to appropriate money that the President asks us for. Let me repeat; we do not have to appropriate money that the President asks us for. You see, if a President decides to be totally arbitrary about this, the Congress of the United States does not have to appropriate money for things the President wants. That is our balance. There can be no money spent unless we appropriate it.

So, in addition to all of the other things the President needs of a Congress and a Senate under the Constitution, those are all our powers that he needs to help him do his job.

In addition, he needs dollars to run the Government of which he is the Chief Executive, and we have to appropriate those dollars.

I am not worried about the balance of power because, obviously, Congress will withhold some of the President's power if this gets into an arbitrary match of power, and I believe it is going to be used to the betterment of our country, our people, and the taxpayers.

With reference to the motion we are going to vote on, let me be very brief and very forthright. The amendments Senator BYRD has offered and that I am going to move to table shortly will return the line-item veto to conference. It took us 6 months to reach a compromise on the line-item veto. To send it back with instructions is to kill it because what is purported to be instructed cannot pass the Senate and cannot pass the House.

This motion calls us to cast aside the compromise embodied in this conference report. It calls on the conferees to adopt an expedited rescissions approach instead. Both Houses rejected the expedited approach. Last year, during the Senate's consideration of the line-item veto, we voted 62 to 38 to table the expedited approach which the distinguished Senator from West Virginia, Mr. BYRD, is asking us to instruct the conference committee to do again—a nullity for sure, for nothing will happen, and I believe that is what is intended if these amendments were adopted.

I support the compromise, and it is now time to vote on the conference report on the line-item veto. A vote in favor of the motion will be a vote to defeat the line-item veto conference report before us. I urge Senators not to do that.

So we will all have a chance to make sure we do not send this to conference, I yield back the remaining time that I have, and I yield the floor.

I move to table the underlying amendment.

The PRESIDING OFFICER. The question is on agreeing to the motion to table the motion to recommit the conference report. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

The result was announced—yeas 58, nays 42, as follows:

[Rollcall Vote No. 55 Leg.]

YEAS—58

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

NAYS—42

Akaka	Byrd	Feingold
Biden	Cohen	Ford
Bingaman	Conrad	Glenn
Boxer	Daschle	Harkin
Bradley	Dodd	Hatfield
Bryan	Dorgan	Heflin
Bumpers	Exon	Hollings
Inouye	Levin	Pryor
Jeffords	Mikulski	Reid
Johnston	Moseley-Braun	Rockefeller
Kerrey	Moynihan	Sarbanes
Kohl	Murray	Simon
Lautenberg	Nunn	Wellstone
Leahy	Pell	Wyden

The motion to table the motion to recommit was agreed to.

Mr. CHAFEE. Mr. President, I thank the managers for the opportunity to speak in favor of the conference report to accompany the Line-Item Veto Act, S. 4.

I would challenge those who argue that the President already has sufficient authority to rescind unwanted spending items. The opposite is true. The rescission authority vested in the President today barely works at all. In the overwhelming number of cases, Presidential rescission orders are ignored by Congress, and the subject funds are ultimately obligated.

In fact, since the rescission authority was established in 1974, Congress has only given approval to $23.7 billion of the $74 billion Presidential rescission requests. In other words two-thirds of the rescission requests died a quiet death.

By requiring Congress to affirmatively disapprove rescissions, this legislation would transform the present "paper tiger" into a functional tool for reducing and eliminating: Special interest spending items in appropriations bills; expansions of existing, or establishing of new, entitlements; and tax expenditures which benefit narrow groups of taxpayers.

Mr. President, the debate over this issue has been a long and tortured one. In looking back, I found an interesting item which illustrates just how long and tortured it has been. I want to direct the Senate's attention to a speech given on the floor of the House by Congressman R.P. Flowers from New York in support of the line-item veto. The date was December, 1882.

In addition to a belief that it would foster economy in Government, Representative Flowers had another motivation—that of supporting the wishes of a constituent who just happened to be President of the United States. That President was Chester A. Arthur, who advanced from Vice President to President when James A. Garfield was tragically struck down by an assassin's bullet in 1881.

In his annual message to the Congress, President Arthur stated:

> I commend to your careful consideration the question whether an amendment of the Federal Constitution . . . would not afford the best remedy for what is often a grave embarrassment both to Members of Congress and to the Executive, and is sometimes a serious public mischief.

The "embarrassment" and "public mischief" to which the 21st President was referring was the same problem then that it is today: The tactic we in Congress employ of burying narrow spending provisions—which cannot on

their own merits survive the legislative process—in massive must-pass appropriation bills.

Congressman Flowers delivered his speech 114 years ago. While the proposal before us today is far less ambitious than the constitutional amendment requested by President Arthur, the arguments have been thoroughly vetted.

Representative Flowers summarized the arguments against the line-item veto as: First ". . . an indignant howl about our rights an interests" [in the Legislative Branch]; and second, ". . . those who feign mistrust of the Executive, who fear too much 'one-man power.'"

Wisely, the bill before the Senate today includes a sunset provision. If it turns out that this authority is abused by the Chief Executive—which I do not fear—then Congress can let the authority die.

The point is, we have been debating this issue for at least 114 years, and the arguments pro and con have been debated ad nauseam. Passage of this legislation will not solve our deficit problems. However, it will give the American people one more tool—one more check against unnecessary spending. Frankly, in my view, we need all the help we can get in that regard. So, I say: Let us pass this conference report and get on to other business.

Mr. KYL. Mr. President, the Line-Item Veto Act is a good bill, but one that should not be necessary. Congress should always have the good sense to spend taxpayers' hard-earned money wisely, for the benefit of all citizens.

Mr. President, British historian Alexander Tytler once said:

> A democracy cannot exist as a permanent form of government. It can only exist until the voters discover that they can vote themselves largesse from the public treasury. From that moment on, the majority always votes for the candidates promising the most benefits from the public treasury with the result that a democracy always collapses over loose fiscal policy, always followed by a dictatorship. The average age of the world's greatest civilization has been 200 years.

Alexander Tytler makes an excellent point, but perhaps the American people have wisdom and foresight that he could not understand. The American people recognize the burden that a spendthrift government can impose on them, their children, and their grandchildren. And that is why they have been so adamant about demanding change. Demanding less Government spending, lower taxes, and a leaner Government—before Tytler's prophecy comes to pass.

The American people began to change the face of Congress in the last election. And of course, electing fiscally responsible individuals to the Congress is probably the most powerful and effective weapon that the American people can wield in the fight against pork-barrel spending. It is more effective than a line-item veto can ever be.

The line-item veto itself is not a cure-all. It will not result in a balanced budget. There is not enough pork that can be deleted from the budget to accomplish that. But, if properly exercised by the President, it can make it easier to get to balance.

Make no mistake about it, this bill will shift a great deal of new power to the President. I do not relish that prospect because the potential for abuse by the President is great. He can use the veto power to reward or punish Members of Congress, depending upon whether they support or oppose other policies of his administration.

Most Presidents, however, will be responsible about how they use this awesome new power. That is because all eyes of the American people will be on the President if he abuses it, or if he fails to properly delete wasteful spending from appropriations bills. By signing this bill into law, President Clinton will be accepting significant new responsibilities from the American people to safeguard their hard-earned tax dollars. I have no doubt that they will hold him accountable if he fails to use the new power wisely.

Mr. President, just a few weeks ago, the nonpartisan taxpayers' organization, Citizens Against Government Waste, released the 1996 Congressional Pig Book Summary. The good news is that the organization certified that, in 1995, Congress produced the first pork-free appropriation bill ever—the legislative branch appropriations bill.

Unfortunately, however, not all of the news was good, and that is one reason why the line-item veto is still necessary. Citizens Against Government Waste found a total of $12.5 billion in pork-barrel spending in eight other fiscal year 1996 appropriations bills that have been signed into law. Among the projects that the group identified were rice modeling at the Universities of Arkansas and Missouri; shrimp aquaculture; brown tree snake research; the International Fund for Ireland; and the Iowa communications network, to name a few.

These are the kinds of projects that are likely to be the target of a line-item veto, projects that are typically hidden away in annual spending bills. They're enough to demonstrate the ability of certain legislators to "bring home the bacon" and curry favor with special interest groups back home. But, they don't amount to enough to cause Congress to reject an entire bill or prompt the President to veto a bill and bring large parts of the Government to a standstill.

The line-item veto is designed to bring accountability to the budget process. Instead of forcing the President to accept wasteful and unnecessary spending in order to protect important programs, it puts the onus on special interests and their congressional patrons to prove their case in the public arena. It subjects projects with narrow special interests to a more stringent standard than programs of national interest. The special interests would have to win a two-thirds majority in each House. Programs of national interest would merely require a simple majority.

That is the shift in the balance of power which the line-item veto represents. It is a shift in favor of the taxpayers, and that is why I intend to support it. If the Government were running a surplus, the taxpayers might be willing to tolerate some extra projects. But the Government is running annual deficits that are far too high, and there is no extra money to go around. There is not even enough to fund more basic needs.

Mr. President, when you find yourself in a hole, the first rule of thumb is to stop digging. Let us begin climbing out of the hole we have dug for ourselves and future generations. Let us pass the line-item veto.

EMERGENCY SPENDING PROVISIONS

Mr. FEINGOLD. Mr. President, will the Senator from Arizona yield for a question?

Mr. President, the Senator from Arizona noted in his opening statement on this measure that the emergency spending reforms he and I were able to include in the Senate-passed version were dropped in the conference committee version of this line-item veto measure.

Our provision limited emergency spending bills solely to emergencies by establishing a new point of order against nonemergency matters, other than rescissions of budget authority or reductions in direct spending, in any bill that contains an emergency measure, or an amendment to an emergency measure, or a conference report that contains an emergency measure.

The provision also featured an additional enforcement mechanism to add further protection by prohibiting the Office of Management and Budget from adjusting the caps on discretionary spending, or from adjusting the sequester process for direct spending and receipts measures, for any emergency appropriations bill if the bill includes extraneous items other than rescissions of budget authority or reductions in direct spending.

I know he shares my disappointment that those provisions were dropped.

Is it his understanding that though the emergency spending provisions were dropped from the final conference version of the line-item veto measure, we have been given assurances that the Budget Committee staff will work with our own staffs to bring this matter back on an appropriate legislative vehicle?

Mr. McCAIN. Mr. President, that is my understanding, and I look forward

to working with the Senator from Wisconsin and the Budget Committee staff to address any technical concerns there might be with the emergency spending provisions.

Mr. FEINGOLD. I thank my friend from Arizona.

As we consider ways to empower the President to veto unjustified spending through this new authority, it only makes sense to enact reforms that prevent those abuses from passing in the first place.

The emergency spending reforms that Senator MCCAIN and I introduced as legislation, and included in S. 4 as it passed the Senate, did just that.

Our emergency spending legislation previously passed the House by an overwhelming vote and I am hopeful that we will soon be able to overcome the resistance to this provision and have it enacted into law as well.

And though I regret our reforms were not included in this proposal, I look forward to working with the Budget Committee and my good friend from Arizona to iron out any drafting problems, and find an appropriate vehicle for this needed reform.

Mr. FRIST. Mr. President, I rise today in strong support of the line-item veto. No single legislative procedure will do more to curb wasteful Government spending than this powerful legislative tool. For years, Washington has talked about this idea without acting. I am proud to be a Member of the Congress that will make the line-item veto a reality.

For years, the Federal Government has demonstrated an appalling lack of fiscal responsibility. Today, our national debt is over $5 trillion—more than $19,000 for every man, woman, and child in America—and is growing at a rate of $600 million a day. Entitlement spending—the two-thirds of the Federal budget on automatic pilot—is growing so fast that it will consume all of our tax dollars in just over a decade. Meanwhile, the other third of our budget, discretionary spending, is riddled with unnecessary pork-barrel projects. Basically, it is too easy to spend and too hard to save here in Washington. We owe it to the American taxpayer to impose fiscal discipline on Federal spending habits.

The line-item veto reforms our institutional and procedural tendency to overspend. Here's how it works. The President already can veto spending bills passed by Congress. S. 4 gives the President the authority to veto specific spending items—including appropriations, new entitlements, and limited tax benefits. The President's cancellations will stand unless Congress passes a bill restoring the spending and providing the two-thirds support necessary to override any additional vetoes.

Some people argue that S. 4 shifts too much power from Congress to the President. However, I believe the President needs a tool to help control Congress' insatiable appetite for spending the taxpayers' money. We must give our Chief Executive the power to strike discreet budget items which do not serve the national interest. In fact, I am so convinced that the line-item veto is the right thing to do that I am willing to give this power to a President of another political party.

While the line-item veto alone cannot balance our budget or pay off our national debt this one legislative tool could perform radical surgery on wasteful federal spending. In 1992, the General Accounting Office [GAO] estimated that a line-item veto could have saved $70 billion in wasteful spending during the last half of the 1980's. That $70 billion could provide a $250 tax credit for families with children for 7 years. Taxpayer watchdog group Citizens Against Government Waste identified an additional $43 billion in procedural pork spending in the last 5 years, spending which circumvented normal budget procedures. Imagine how a line-item veto could have saved a significant portion of that money.

But we don't need the GAO or a taxpayer watchdog to tell us that the line-item veto works. We only need to ask the 43 of our Nation's Governors who use this tool on a regular basis. In fact, when President Clinton was Governor or Arkansas, he used the line-item veto 11 times. If the States can control spending and balance their budgets, the Federal Government should follow their example.

Mr. President, I look forward to the day when I can tell my three sons, my fellow Tennesseans, and every American that they have inherited a country free of debt. I look forward to the better job opportunities and higher the standards of living they they will enjoy. And at that moment, I hope I can look back at the day we passed the line-item veto as the day a bipartisan group of legislators took a significant step down the road to fiscal accountability. I strongly urge my colleagues to support this bill.

THE LINE-ITEM VETO: STILL AN ILL-CONSIDERED PROPOSITION

Mr. PELL. Mr. President, when the line-item veto was last before us, I said that I found myself in opposition both on philosophical as well as practical grounds.

I must be quick to acknowledge that my reservations on practical grounds have been met. The conferees deserve credit for replacing the cumbersome and unworkable scheme of separate enrollment in the Senate version of the legislation, with at least a workable plan for enhanced rescission authority.

But my underlying philosophical reservation remains. As I said when the bill was last before us, I simply believe that Congress should be extremely chary in yielding its power of the purse to the executive branch. I hold this view on the basis of my Senate service under eight Presidents of both parties during my 35 years in the Senate, and notwithstanding the cordial relationships I have had with all of them.

I continue to believe that the executive branch, which under our Constitution, quite properly is a separate power center with its own agenda and its own priorities, inevitably will seek and use any additional power to achieve its objectives. And the pending grant of veto power over specific items, I fear, will surely give even the most benign and well-motivated Chief Executive a new means for exercising undue influence and coercion over individual members of the legislative branch.

I hold this view, notwithstanding my loyalty and respect for President Clinton, who I know would use such a grant of authority wisely. But it is the balance of institutional forces that must be considered, and it is in this connection that we have been well served by the erudition of the senior Senator from West Virginia [Mr. BYRD], who has reminded us so eloquently of the need to protect the legislative prerogatives. I agree with him and I commend him for his great service to the cause of constitutional government.

Mr. LEAHY. Mr. President, I have a number of serious concerns and questions about the conference report on the line-item veto, S. 4.

First, the line-item veto encourages minority rule by allowing a Presidential-item veto to stand with the support of only 34 Senators or 146 Representatives. This is not majority rule. We are back to anti-democratic supermajority requirements, which I thought were dismissed during the balanced budget amendment debate.

By imposing a two-thirds supermajority vote to override a Presidential-item veto, the line-item veto undermines the fundamental principle of majority rule. Our Founders rejected such supermajority voting requirements on matters within Congress' purview.

Alexander Hamilton described supermajority requirements as a poison that serves to destroy the energy of the government, and to substitute the pleasure, caprice, or artifices of an insignificant, turbulent, or corrupt junto to the regular deliberations and decisions of a respectable majority.

Such supermajority requirements reflect a basic distrust not just of Congress, but of the electorate itself. I reject that notion.

Moreover, supermajority requirements in any line-item veto bill is overkill. I am afraid that this bill will sacrifice many worthy projects on the altar of supermajority votes.

But supermajority power is not needed to strike wasteful line items.

The purpose of any line-item veto bill is to give the President the power

to expose wasteful line items to the sunlight of a congressional vote.

A majority vote is enough to kill any wasteful line item while still allowing Members to convince their colleagues to vote for a worthy line item.

In addition, these supermajority requirements hurt small States, like my home State of Vermont, by upping the ante to take on the President.

Under the line-item veto, Members from small States would have to convince two-thirds of Members in each House to override the President's veto for the sake of a project in another Member's district.

With Vermont having only one representative in the House, why would other members risk the President's wrath to help us with a project vetoed by the President?

Another question mark under this conference report is tax breaks.

Under the bill, the President has authority to veto only limited tax benefits, which are defined as providing a Federal tax deduction, credit or concession to 100 or fewer beneficiaries.

Any accountant or lawyer worth his or her high-priced fee will be able to find more than 100 clients who can benefit from a tax loophole. If more than 100 taxpayers can figure out a way to shelter their income in a tax loophole, the President would not be able to touch it. The bigger the loophole in terms of the number of people who can take advantage of it, the safer it is.

The definition of limited tax benefit sounds like a tax loophole in itself.

Would the President have line-item veto authority over the capital gains tax cut described in the House Republican Contract With America?

It certainly is estimated to lose revenue—the bipartisan Joint Committee on Taxation has estimated that the contract's capital gains tax cut would lose almost $32 billion from 1995 to 2000.

Yet somehow I think a capital gains tax cut would fall beyond the scope of being a limited tax benefit under this legislation.

Why do we not quit this shell game. Just state in plain language that the President has line-item authority over all tax expenditures.

I believe we should tread carefully when expanding the fiscal powers of the Presidency. The line-item veto will change one of the fundamental checks and balances that form the separation of powers under the Constitution—the power of the purse.

The line-item veto hands over the spending purse strings to the President, whose cuts would automatically become effective unless two-thirds of both Houses of Congress override the veto.

The President would have no burden of persuasion while a Member would have the Herculean task of convincing two-thirds of his or her colleagues in both Houses to care about the vetoed project.

It is truly a task for Hercules to override a veto. Just look at the record—of the more than 2,500 Presidential vetoes in our history, Congress has been able to override only 105.

As noted so well in The Federalist Papers: "the accumulation of all powers, legislative, executive, and judiciary, in the same hands, whether of one, a few or many, and whether hereditary, self-appointed, or elective, may justly be pronounced the very definition of tyranny."

Let us not try to score cheap political points at the expense of over 200 years of constitutional separation of powers.

Mr. REID. Mr. President, I rise in opposition to the proposed Line-Item Veto Act. The conference report does more to upset the balance of powers than any legislation this body has considered this year. This is not about curbing expenditures. It is body abrogating constitutional responsibility. It is about ceding unbridled spending authority to one individual in one branch of the Government. It should not be called the Line-Item Veto Act. Rather, it should be called the Presidential Spending Empowerment Act. It grants unprecedented amounts of spending power to one individual. Proponents attack discretionary spending as though this were the reason for our deficit. They know better. Discretionary spending becomes a smaller part of the Federal budget every year. The days of pork-barrel spending have long since passed. This concept is replaced by yielding the President authority to punish his enemies.

This is an invitation to unfettered politicization of the Federal spending process. It is exactly this kind of undue influence that the founders sought to avoid through separation of powers doctrine. It does not take the imagination of Machiavelli to see how this power could be used for nefarious purposes. This is particularly true in an election year. Look at the possible scenarios that could be in store. This would give a future incumbent President quite a political weapon. Perhaps it could be used to entice the endorsement of Members from key primary States. A President could agree to not cancel an item of new direct spending on the condition that a member endorse his candidacy. Conversely, he could punish a Member for deciding not to support him. Even in a nonelection year, this unfettered power could be unleashed for the rawest of political purposes. Why? Because this legislation creates an implied threat against all Members of Congress. This implied threat is vested in one politician. It can be exercised on any piece of legislation this body considers.

The significance of the conference report is not what is said, it is what is not said. It attempts to remove politics from the process. Unfortunately, it will have the exact opposite effect that its supporters intend. It injects the rawest form of power politics into the Federal spending process.

The conference report creates enormous political arsenal and endows it in one individual. Its proponents say it will act as a shield against unnecessary spending. But it's really an axe that can bludgeon any legislator who dares to disagree with a President. This is not just about concentrating unprecedented amounts of power in one individual in one branch of government. It is about giving that individual a lethal political weapon. We are giving that individual license to use this weapon in whichever manner he sees fit.

Proponents of the conference report say this measure can be used as a surgical scalpel. I believe it more closely resembles a hovering guillotine. It is not just congressional spending authority that will be infringed. Our third branch of government, the judiciary, will have its independence placed in jeopardy.

I would encourage all Members to read an excellent piece on this issue in today's New York Times. It sets out some interesting arguments as to why the legislation is opposed by the judiciary. Many legal scholars are beginning to make their opposition known. Indeed, the Judicial Conference of the United States has spoken out against this measure. It said such authority posed a threat to the independence of the judiciary because a President could put pressure on the courts or retaliate against judges by vetoing items in judicial appropriations bills.

Judge Gilbert Merritt, chief judge of the Court of Appeals for the Sixth Circuit opposed this measure. Judge Merritt said it was unwise to give the President authority over the judicial budget because the executive branch was the biggest litigant in Federal court. I believe Judge Merritt is correct. The potential for conflict is obvious. All of us, at some point or another, have likely found ourselves in profound disagreement with a judicial ruling. But we realize there is a process in place for disagreeing with clearly wrongheaded decisions. We introduce legislation, hold hearings, and attempt to persuade our colleagues of the proposal's merits. None of us, individually, has the ability to influence a judicial decision we disagree with.

The conference report endows in one individual the tools with which to immediately demonstrate displeasure. Why don't we simply eliminate the lifetime tenure provisions from article III. Judges have good reason to fear this measure. They should be on notice that all future decisions could be subject to political appeal. The Supreme Court may ultimately have the final say but the President can ensure whether it has the paper on which to say it.

This political weapon can be exercised in many different ways. The executive branch may be litigating one of its policies in Federal court. This happens all the time in every administration. Consider the conflict that could arise if the administration receives an unfavorable ruling from a particular court. Now, the President could employ the power of the bully pulpit or appeal to Congress to handle the matter legislatively. With this new political weapon, he could also excise the appropriation for that particular court. This is not meant to cast aspersions on our future Presidents. It merely reflects the political reality that the Framers recognized when they wrote the Constitution.

Process for considering item vetoes binds this body to new rules that are overly burdensome and unduly restrictive. It will be very disruptive to the consideration of substantive legislative matters. We don't even know how this will play out and we are today being asked to accept a 10-hour time agreement. A large number of line-item vetoes may deserve debate. Are we all willing to enter into a 10-hour time agreement today? What kind of chaos are we binding ourselves to?

There is a great deal of thought and consideration that goes into writing an appropriations bill. Typically, the White House is involved throughout this process. It is not as if the administration reads appropriations bills for the first time upon their passage. Administration officials are actively involved in every step of the way. Why not really make this easier? Allow the administration to write the measures and schedule up or down votes in both bodies.

Presidential veto of targeted tax benefits was a key feature of the Senate-passed bill. The conference report attempts to define tax benefits by counting the number of beneficiaries. At best, this is disingenuous. A tax benefit is defined as an income tax deduction, credit exclusion or preference to 100 or fewer people. Why not limit the scope of the veto to appropriations or new direct spending that impacts 100 or fewer beneficiaries? Perhaps this was added in conference to gain the support of tax lawyers. Any good tax lawyer will be able to find an extra person or two to meet the sufficient number of beneficiaries.

I believe that is why this body explicitly rejected the concept of numerical beneficiaries earlier. Different types of taxes are treated differently. Interestingly, other taxes such as estate and excise taxes would not be subject to a Presidential rescission. The report also excludes tax breaks that target persons owning the same type of property. Thus a tax benefit to owners of 1997 Rolls Royces would not be subject to a veto since all persons owned the same type of property.

Today, less than 7 percent of vetoes are overridden. If this measure passes, veto overrides will likely be nonexistent. This Presidential political weapon will be used against regions, States, or congressional districts. There, of course, will never be enough vetoes to override. This is a far worse bill than the one which made it out of this Chamber a year ago. That bill included a provision that allowed 60 Senators to prevent an item from being singled out for a veto. The conference report requires two-thirds of both the Senate and the House to override a veto. Thus, the President needs only 34 percent of one House in order to rescind appropriations the majority of Congress had previously voted to approve.

This is an unprecedented amount of veto power to endow in one individual. This Senator contends it is an unconstitutional delegation of legislative power.

Many legal scholars claim we have little to fear because this act will be ruled unconstitutional in the courts. I do not believe that is a chance worth taking. I realize the majority party is under a lot of pressure to complete its so-called Contract With America. But in its zeal for closure is it really willing to pass clearly unconstitutional acts? Are we willing to now discount and discard the doctrine of separation of powers? And what are the consequences?

Perhaps it was best stated by the Senate's great constitutional scholar, Senator BYRD, in an earlier debate: "History shows that when the Roman Senate gave away its power of the purse, it gave away its check on the executive." As for the line-item veto eliminating wasteful spending, Senator BYRD said it is "analogous to giving cyanide for a cold."

Who are we, the benefactors of these great constitutional rights, to sit in judgment of our Founding Fathers? If they were so right then, could we be so wrong today?

Mr. BIDEN. Mr. President, I have long supported an experiment with a line-item veto power for the President. Over a decade ago, I introduced my own plan for a line-item veto, with Senator Mattingly. Since then I have cosponsored several similar plans, in particular those offered by my distinguished colleagues Senator HOLLINGS and Senator BRADLEY.

I have held this position for all these years, Mr. President, not because I believe the line-item veto will solve our deficit problem. No single procedural change can do that.

I support a line-item veto because it will, at the margins, shift the incentives now in our system to attach special-interest spending to our appropriations bills. To rein in that practice, Mr. President, we must expose it. The line-item veto will give the President a tool, if he chooses to use it, to raise the profile of wasteful, special-interest spending—to expose it to the light of public scrutiny.

The need to track down and remove wasteful spending is not new, Mr. President, but it has never been more important than now. As we continue down the road toward a balanced budget, we must reserve every dime of taxpayers' money for the most important priorities of this country. Now, more than ever, waste in one program will require cuts in more deserving areas.

So we must do all we can do to change the incentive to smuggle such spending into appropriations bills in the first place, or to give the President the power to cut it out once it gets there.

Mr. President, the version of the line-item veto that I have consistently supported is not the one before us now. Nevertheless, I will vote for this line-item veto plan today, because I believe that it can be a useful check on wasteful spending, at a time when we must subject every dollar we spend to the most careful scrutiny.

Mr. President, I want to take a few minutes to explain the difference between the version I have consistently supported—the one, I must add, that we passed out of the Senate last year—and the version here before us today. I have long held that separate enrollment is the best approach, in contrast to the enhanced rescission plan before us now. But what do those fancy titles mean?

The separate enrollment approach to the line-item veto is the one that I have supported, and the one that I think most people have in mind when they think of a line-item veto. Quite simply, separate enrollment requires that the Congress take each item in the spending bills we pass and send them to the President separately, instead of lumped together as we do it now.

We used to send individual spending items to the President separately, back before the Civil War. I believe that the separate enrollment approach would restore a relationship between Congress and the Executive that was upset by the practice of lumping those items together. To that extent, it would be less disruptive of the constitutional relationship between the branches of our Government.

The way we do it now, we send the President every item for national defense, for example, in a single spending bill. If the President believes that there are too many tanks, or too many trucks, or too many missiles, he must veto the entire national defense bill to cut out the spending that he doesn't want.

We write bills that way on the bet that the President will accept additional spending as the price of getting our national defense or other basic needs paid for.

And, we must admit, Mr. President, we write bills that way because it serves the needs of individual Members of Congress to have their special projects—that on their own merits, in the cold light of day, could not muster a majority vote—to have those special projects pulled through the process by the locomotive of essential legislation.

By sending each item of spending to the President as individual bills—by separate enrollment of each item—Congress would expose each of those items to the scrutiny it deserves, would remove the camouflage of the larger spending bills.

The modest hope is not that the President will, willy-nilly, cut and slash special-interest items.

Rather, the expectation of those of us who have promoted this idea is that Members of Congress—confronted by a President with this new power—would choose not to include those special interest items that cannot pass the threshold of public scrutiny.

That is essentially the version that we passed out of the Senate last year, Mr. President, with one important addition. We included special interest tax breaks among the items the President could veto. Those tax expenditures lose money from the Treasury just as surely as any spending program.

And as for those items vetoed by the President, the normal constitutional procedures would apply—two-thirds majorities of each House would be required to override the veto, to restore the spending that the President has cut.

I have supported that approach as the one that least disturbs the constitutional relationship between the President and Congress, particularly on the crucial issue of the power of the purse.

I was heartened when that was the version passed by the Senate last year.

By the same token, Mr. President, I am less happy about the version before us today. But because I am still convinced that we need to improve our capacity to discourage if possible, and to cut out if necessary, any wasteful, special-interest spending, I will vote for this version.

The line-item veto bill before us today provides for a procedure that is more correctly known as enhanced rescission. It greatly transforms a Presidential procedure that right now has virtually no teeth—the rescission.

Currently, the President may tell Congress that he doesn't want to spend funds for one or more items in a spending bill that he has signed into law. But that will have no effect unless the Congress chooses, on its own, to pass a rescissions bill that may or may not include the items specified by the President.

If Congress chooses not to act, the President remains obligated to spend those funds in the legislation he has signed into law. So right now the rescission power doesn't amount to much, Mr. President, unless Congress decides on its own to make it law.

The bill here today would change that, would put real teeth in the rescission power. It would give the power of the law to a President's decision not to spend money on those items he chooses. That decision would become law unless Congress passed a specific bill to disapprove of his action. If Congress did not act, then the President's decision to cut those items would stand.

If Congress did pass a bill that disapproved of the President's cuts, the President could then use his veto power, which would require a two-thirds majority of each House of Congress to overturn.

This is a powerful new tool in the hands of the President. That is why I have always held that we should experiment with the line-item veto—that we should set a date certain on which the legislation will sunset. This line-item legislation provides for an 8-year experiment, after which it will terminate unless Congress agrees that the experiment has produced more benefits than costs.

This is longer than I think is necessary—particularly if we discover unintended consequences—but it does provide for two Presidential administrations over which to test the merits of this proposal.

I am more disappointed that the President's ability to cut special interest tax breaks has been severely weakened in conference with the House. The remaining provision would apply to only a few tax items—in fact, with clever tax lawyers on the job, it could well apply to virtually no tax breaks.

So, Mr. President, like so much legislation we consider and that becomes law, this line-item veto bill advances a worthy cause—cutting out waste and special-interest spending—but not in the ways that all of us may agree with. As someone who has for years advocated the separate enrollment method of line-item veto, I wish we had chosen that route.

But there is a more fundamental question: Will we give the President a power that will expose congressional spending to a higher level of scrutiny? Will we take an additional step to prevent the inclusion of special-interest spending in our appropriations bills? I am willing to take that step, Mr. President, and will vote for the conference report.

Mr. SMITH. Mr. President, I rise in strong support of the line-item veto bill before the Senate today, and urge my colleagues to pass this overdue measure. As a long-time opponent of pork-barrel spending, I am glad we are taking this first small step toward fiscal sanity.

When I attend a town meeting, or hold a briefing on the Federal budget, I often hear a common sentiment: "Why does Congress want to change Medicare, or education, or whatever, when we are spending $5 million on Hawaiian arts and crafts?" It is a question that cannot be answered. Pork-barrel spending may constitute a relatively small portion of the overall budget, but it represents a very symbolic part of the budget. If Congress cannot cut the little spending items, how on Earth can we make the difficult decisions on the larger programs?

Will the line-item veto balance the Federal budget? Of course not. But it will help restore discipline to our budget process. It is no secret that special projects and narrow interest provisions are often included in large spending bills. We often see $1 or $2 million projects tucked away in multibillion budget measures. A Senator or Congressman will issue a press release about the wonderful project, and then feel compelled to vote for the overall bill. Slowly, but surely, the spending bills begin to add up and the problem becomes worse. The pork-barrel spending is the grease that allows the budget process to move forward. And that budget process has led this Nation to a $5 trillion national debt.

The line-item veto bill will give the President—who has a national constituency with a national interest—the tool he needs to cut projects that serve a narrow constituency with a special interest. The legislation before the Senate today allows the President to veto appropriations, targeted tax provisions, and new entitlement spending. Any of these provisions, if passed separately, are now subject to a Presidential veto and a two-thirds override requirement. The line-item veto bill is a natural and simple extension of that constitutional power. Projects worthy of scarce Federal tax dollars should stand or fall on their own merit, not on the merit of a larger unrelated bill.

Mr. President, I have supported and cosponsored line-item veto legislation for more than a decade. It has been a long and arduous fight. I, for one, am glad that the fight is finally over. I commend my colleagues—Senator MCCAIN and Senator COATS—for their hard work on behalf of this landmark legislation. This line-item veto bill before the Senate today will certainly stand the test of time.

Mr. ROCKEFELLER. Mr. President, I am a proponent of responsibly reducing the deficit, as are many of my colleagues. I, too, want to eliminate wasteful spending. But this conference report on the line-item veto bill is not the right way to ensure deficit reduction or responsible fiscal management in my view.

As articulated so poignantly by my colleague from West Virginia, Senator BYRD, the line-item veto legislation raises many constitutional problems and it substantially alters the balance

of power devised by the Framers of our Constitution.

Before supporting such a dramatic change in the balance of powers, we need to examine it in light of what it really offers our country.

Giving a President broad power to cut discretionary spending concerns me in theory, but it troubles me even more to think about its potential effects in practice. A President may hastily veto substantive provisions of a spending bill, which he considers wasteful, but which really are essential programs for States or regions. One person's perception of waste or pork may be another person's funding for roads, schools, needed housing, or rural hospitals. Or a President could even wield a line-item veto as a political tool to intimidate a particular Member or groups of Members.

A specific example is the recent history of funding for the Appalachian Regional Commission [ARC]. Recent Republican Presidents sought to eliminate the Appalachian Regional Commission [ARC] from the budget, but a bipartisan group within Congress maintained this important program to promote economic development in some of the poorest counties of our country. The ARC provides basic funding for infrastructure and economic development.

In representing West Virginia's interest, I do not believe that Congress should give any President free range to cut discretionary spending. Under the line-item veto, a President could veto spending for the ARC, or other discretionary programs ranging from highway projects to housing programs.

It is important to note that the present system already offers a way for the President to express his dissatisfaction with provisions in spending bills, known as the rescission process. Although this process might need to be streamlined and simplified, the President already has the ability to call for the rejection of specific programs within spending bills. Through the rescission process, the President can call on Congress to make more immediate cuts in areas which he thinks are wasting taxpayers' money. The President can single out items in spending bills that he opposes, and if Congress approves the budget cuts are made immediately.

I agree that Congress needs to chart a careful course for deficit reduction and economic growth, and I continue to vote for cuts in specific programs where I believe Congress has wasted taxpayer money. I do not, however, want to risk the careless elimination of critical programs which benefit West Virginia and other States. And I do not want to irrevocably alter the balance of power between Congress and the executive branch which was enshrined in our constitution over 200 years ago. I think Congress has duty to be excruciatingly careful when fundamental rewriting of our Constitution is being considered. This conference report has not been given proper consideration and I disagree with its intent on principle. I oppose passage of this conference report.

Mr. GRASSLEY. Mr. President, I am proud to have this long awaited and unique opportunity to address the Chair about a successful conference report on a line-item veto.

Some of us have spent much of our congressional careers fighting against wasteful spending. Under present law, the Chief Executive often cannot join in the battle against waste without the risk of destroying the good along with the extravagant. This line-item veto conference report succeeds in allowing a responsible Chief Executive to join our team of responsible legislators. Indeed, the line-item veto will allow a responsible President to join us in weeding the peoples' legislative garden.

With this line-item veto, a responsible President can attack and cancel out entire dollar amounts in appropriation bills. He may not merely reduce a dollar amount; He may only cancel it entirely. With this line-item veto, a responsible President will attack and cancel out latent direct-spending provisions that would increase future spending. Thus, we will help prevent future deficit increases before they even begin; first, by eliminating a wasteful provision, and second, by dedicating any savings from operation of the line-item veto to a special lockbox for deficit reduction.

In the area of tax expenditures, a responsible President can attack certain flagged and frivolous tax legislation. This line-item veto will instruct the nonpartisan Joint Committee on Taxation to identify and flag any limited tax benefits that may exist in future conference reports of future tax bills. This conference report on the line-item veto defines limited tax benefits as any tax expenditures that would both, lose revenue either in the first year or over the first 5 years, and benefit 100 or fewer persons Then, Congress would add a list of these limited tax benefits to the conference report as a matter of law.

If the Joint Committee on Taxation looks, but does not see, any limited tax benefits, then it may issue a clean bill of health upon the related tax legislation. If the Joint Committee on Taxation does not look for any limited tax benefits, then the Chief Executive may himself look for the limited tax benefits. He would use our same objective measure outlined in the conference report.

Having found waste, a responsible President may effectively take out his ruler and draw a line through any offending legislation. After operating a line-item veto, the President would send a special message back to Capitol Hill outlining his actions. Both Houses of Congress would refer the vetoed line items to the appropriate committees.

The operative Senate committees may then report out a disapproval bill containing the vetoed line items. The Senate would listen to only 10 hours of debate and amendments before voting on a disapproval bill. Thereafter, the President may again see the same legislation because the process would simply start over. The President would then have the Executive powers offered by this line-item veto conference report and article I, section 7 of the Constitution.

Like the Constitution, this line-item veto conference report has many proud cosigners. I want to thank the chairmen and ranking members of the Committees on Governmental Affairs and the Budget. I also want to thank Senators MCCAIN and COATS for their efforts and commitment. Especially for his attention to the line-item veto as it may affect future tax legislation. I want to thank Senator ROTH, the able chairman of the Committee on Finance. Finally, I want to thank all those with whom I have always joined in our tireless efforts to stamp out the Government waste of taxpayer capital.

This is a great day indeed. I urge all of my colleagues to join in support of this conference report on the line-item veto.

Mrs. MURRAY. Mr. President, I take the floor to oppose the so-called line-item veto legislation before us today. I regret I cannot support this conference report, but unfortunately this report is careless, highly questionable and possibly unconstitutional. Mr. President, I support the line-item veto proposal submitted by Senator BYRD. His expedited rescission proposal was well-written and made good common sense, but unfortunately, it was not accepted by the Senate.

I know all too well the abuse that can arise through broad, sweeping line-item veto authority. Mr. President, I served in the Washington State Senate prior to coming to the U.S. Senate. My home State arms its executive with line-item veto authority, and while serving in the State legislature I witnessed, first hand, the horse trading that results by giving the State's executive this authority.

In my home State, the line-item veto does not deter spending. Rather, it encourages more spending. It puts legislators in the position of having to accept the Governor's priorities in order to make sure their legislative priorities are not vetoed by the Governor.

As you know, Mr. President, this debate essentially was spawned out of our desire to reduce Government waste and balance our Nation's budget deficit. I do not think there is a single Member in this body that does not want to reduce the Nation's budget deficit. However, I have great difficulty turning over my responsibility and Congress'

fiscal responsibilities to the executive branch. Mr. President, the line-item veto is a budget gimmick, and it simply passes the power of the purse from Congress to the President.

Since 1993, we have cut the Nation's budget deficit in half. This is commendable work. However, it was difficult work that required tough decisions. Congress and the Clinton administration chose to reduce and cut hundreds of Federal programs. This was not easy, but it is what we were elected to do. We will get our fiscal house in order once we set our minds to it. We do not need a line-item veto. We need courage. We should not shrink from our constitutional responsibilities. We should accept the challenge.

Mr. President, earlier today I listened to the elegant words of Senator BYRD. Senator BYRD is a great orator, respected legislator and an excellent teacher—especially when it comes to the constitutional issues surrounding the line-item veto. I hope my colleagues listened to his words, because there are some real constitutional issues that need to be addressed because of this legislation.

This legislation disrupts the delicate balance of powers laid out by our Founding Fathers. It shifts an enormous amount of power to the President of the United States—directly conflicting with Congress' constitutional duties. And, as written, this legislation gives the President and a one-third minority in one House the power to veto legislation a majority of Congress approved. It turns the idea of checks and balances on its head.

Mr. President, I also have grave concerns with the language pertaining to targeted tax benefits. This language is cleverly written in a way that ultimately prohibits the President from vetoing new targeted tax benefits. If we want to grant the President a line-item veto, let us at least do it the right way. Let us at least let the President strike new tax expenditures.

Moreover, I urge all my colleagues from small States to read this legislation carefully, because as it is written, the President has the power to strike very specific language including charts and graphs. For instance, the President would have the power to strike funding for a single State if an appropriations bill or report includes a chart breaking out spending per State. We know the President is not going to strike funding from electoral-vote rich States. But, what keeps the President from cutting funds in smaller States?

Mr. President, this again reminds me of the horse trading I experienced in my home State legislature. This legislation puts legislators in the awkward position of having to protect congressionally approved legislation from the President's veto pen—legislation that was debated, considered and eventually agreed to by Congress—agreed to the way our Founding Fathers envisioned the process would work, and the way our constituents expect us to govern.

In no way did our Founding Fathers expect the President to unravel legislation that was crafted through compromise by both the majority and the minority.

Mr. President, there is a right way to craft this legislation. It should be written clearly and carefully—without ambiguity. We should craft legislation that doesn't exempt specific tax breaks, one that doesn't allow a President to attack entitlements, and one that doesn't hold small States hostage.

So, Mr. President, I urge my colleagues to vote against this legislation. The line-item veto is not the solution to our deficit problems. We know what needs to be done to reduce the deficit, and we have done it here on this floor over the past 3 years. We know the line-item veto is not the tool needed to accomplish that goal, but rather, just a feel-good gimmick that puts off the tough decisions.

Mr. FEINGOLD. Mr. President, this issue is not simple, nor is it easy.

If it were, there would be a larger consensus on how we should proceed in this area, if at all.

I supported the version of S. 4 that passed this body—the so-called separate enrollment approach. Though that legislation was flawed, I was willing to support that experimental line-item veto authority to provide the President with some additional authority to eliminate inappropriate spending.

I do not believe the line-item veto is the whole answer to our deficit problem, or even most of the answer, but it certainly can be part of the answer.

The legislation before us today, too, is flawed, but I am willing to give this new mechanism a chance to work, and to see it tested over the next several years. Like the version of S. 4 that passed the Senate, this measure also has a so-called sunset clause which terminates the expanded veto authority unless Congress takes action.

If the Congress decides, which it may well do, that we have gone too far in delegating authority to the President, the sunset clause will make it much easier to terminate the experiment, if necessary. The burden will be on those who want to retain the authority.

Mr. President, in the end, that sunset clause allowed me to support a measure with which I am far from satisfied. Without a sunset clause, Congress would have to pass a bill to repeal the line-item veto authority. It is likely that any President would veto such a bill, and unless two-thirds of the members of both Houses were to override that veto, the President would retain this extraordinary new power.

Mr. President, though the continuing Federal budget deficits justify granting this temporary authority to the President on a trial basis, I do have serious concerns about this proposal, which I want to highlight, and will continue to monitor. Possibly my biggest concern is the effective threshold of two-thirds vote in each House to overcome this new expanded veto authority. That kind of threshold is provided in the Constitution for entire bills, but extending that authority for individual sections of a bill may be problematic. There are many uncertainties in this new authority that we are providing the President, and no one can anticipate all the potential abuses that might flow from this new authority.

Though we have no experience at the Federal level, those Members who have served in State government may have seen the use of line-item veto authority at the State level. Indeed, much of the support for a Federal line-item veto stems from the State experience.

But, Mr. President, few other States, if any at all, have witnessed the abuses of line-item veto authority that we have seen in Wisconsin. That abuse has been bipartisan—Governors of both parties have used Wisconsin's partial veto authority in ways it is safe to say no one anticipated when that authority was first contemplated. For example, Mr. President, Wisconsin's current Governor, Governor Thompson, has used the veto authority not only to rewrite entire laws, but actually to increase spending and increase taxes.

The two-thirds threshold compounds the uncertainty about possible abuses by making it that much more difficult for Congress to respond to that possible abuse.

Mr. President, another serious flaw in this measure are the provisions relating to tax expenditures. They are far from adequate. The language in the Senate-passed version of S. 4 relating to tax expenditures has been weakened significantly, essentially blunting this authority as a tool for restraining that area of spending that is among the largest and fastest growing, and that includes unjustified subsidies to some of the wealthiest individuals and corporations in the world.

Mr. President, tax expenditures contribute greatly to pressure on the deficit, and if any area should be subjected to the scrutiny of line-item veto authority, it is this one. The failure of this proposal to target abuses in this area is a serious flaw, and I regret the special interests that generated some of these abuses in the first place are exempt from this new Presidential authority.

Mr. President, I was disappointed, too, that the emergency spending reforms the senior Senator from Arizona [Mr. MCCAIN] and I incorporated into the Senate-passed version were dropped from this measure. That provision limited emergency spending bills solely to emergencies by establishing a new point of order against nonemergency matters, other than rescissions of

budget authority or reductions in direct spending, in any bill that contains an emergency measure, or an amendment to an emergency measure, or a conference report that contains an emergency measure.

The provision also featured an additional enforcement mechanism to add further protection by prohibiting the Office of Management and Budget from adjusting the caps on discretionary spending, or from adjusting the sequester process for direct spending and receipts measures, for any emergency appropriations bill if the bill includes extraneous items other than rescissions of budget authority or reductions in direct spending.

As we consider ways to empower the President to veto unjustified spending through this new authority, it only makes sense to enact reforms that prevent those abuses from passing in the first place. The emergency spending reforms that Senator MCCAIN and I included in S. 4 did just that, and I regret they were not included in this proposal.

I understand, however, that commitments have been made to revisit this provision in separate legislation. The emergency spending legislation previously passed the House by an overwhelming vote and I am hopeful that we will soon be able to overcome the resistance to this provision and have it enacted into law as well.

Mr. President, the basic structure of this particular line-item veto authority also raises problems. Though it may be less cumbersome than the so-called separate enrollment approach envisioned in S. 4 as it passed the Senate, the new enhanced rescission approach could provide the President with more rescission authority than was intended.

In particular, the shift from Congress to the President in defining the precise material to be vetoed is potentially significant. Instead of vetoing or approving individuals minibills, as under the separate enrollment approach, the President decrees certain actions in the nature of rescissions—actions which effectively are given statutory authority because they are surmounted only by enactment of a disapproval bill.

The scope of these Presidential decrees are limited by the restrictions set forth in this bill, and though the intent of those proposing this new authority may be clear enough in their own minds, there cannot be one hundred percent certainty about the true scope of this new authority until it is actually put into effect. The unintended or even unimagined consequence of this new authority may be its biggest flaw.

This is just what happened in my own State. It is difficult to argue that the original sponsors of Wisconsin's partial veto authority ever intended that a future governor would be able to veto individual words within sentences or even individual letters within words, yet that is precisely what happened.

Successive court decisions gradually expanded the partial veto authority for Wisconsin's Governors, to the point that whole new laws could be created with the veto pen.

Mr. President, could the temporary authority which this measure grants the President be abused in this fashion? Though I do not believe it will, we cannot be certain about what some court might rule in interpreting the restrictions spelled out in the bill.

In some instances, the proposal before us allows the President to exercise his new authority based on committee reports or the statements of managers, neither of which have the force of law, and neither of which have ever been the subject of a vote in either House. That is troubling.

I am disturbed, too, by the language in this proposal regarding so-called items of direct spending. In defining these items, the measure refers to specific provisions of law.

Mr. President, this definition is not at all self-evident. Is a provision of law a numbered section, or can it be an unnumbered paragraph as well? How small a unit of entitlement authority does the proposal intend to expose to the new Presidential authority? For example, if a clause in a sentence defines new entitlement authority in some way, can that clause be canceled without taking the entire sentence with it? Or, can new entitlement authority be limited by the selective cancellation of one word if doing so meets the other stated formal requirements of the measure?

The proposal does not address that issue. It only mentions the words "specific provision of law" without further definition.

As someone who has seen just how creative a Governor can be with partial veto authority, this is a matter of serious concern to me.

Mr. President, there are a few safeguards built into this proposal that provide some comfort in this regard. As I noted before, the new authority sunsets in 8 years. We will have what amounts to an 8-year trial period in which we can monitor this new Presidential authority, and we will. Eight years represents two complete Presidential terms of office, and several election cycles within both Houses, ensuring a diverse set of partisan combinations under which this new authority can be tested, and enhancing the possibility that it will be used under different circumstances and with different ideological intent.

Also, it should be noted that this new authority is established by statute, not as part of the Constitution, thus the measure avoids magnifying these potential problems by making a permanent change to our basic law. To the extent that Congress can selectively control this new authority in subsequent statutes, even prior to the expiration of the proposal before us, the statutory approach to the line-item veto or enhanced rescission authority is much less restrictive than a constitutional amendment.

Nevertheless, Mr. President, we cannot be certain how this proposed authority will be used, no matter how carefully we draft the restrictions on that authority. Those who support this measure bear a special responsibility in this regard. And to that end, should this measure become law, I intend to establish a regular review process to monitor how the new authority is used, how it is misused, how much deficit reduction is produced, and lost opportunities for deficit reduction.

Though temporary, this delegation of authority is significant, and close and continuing scrutiny is warranted, even necessary.

Mr. President, the debate we have had on this issue for over a year has been instructive for me. For some, the passage of a line-item veto authority for the President will only mean they can scratch it off a list, and move on to another issue.

But this issue does not end with our vote, it begins.

We are about to embark on an important experiment. Whether for the benefit of the country and our democratic institutions remains to be seen, but I believe it is an experiment worth performing.

I congratulate the senior Senator from Arizona and the Senator from Nebraska [Mr. EXON] for their work on this measure. I thank them especially for their past efforts on behalf of the amendment I offered to clean up the emergency appropriations process. Though it was not included in the final version of this proposal, I very much appreciated their courtesy, and I look forward to working with them to find another vehicle for that worthy reform.

I yield the floor.

Ms. MOSELEY-BRAUN. Mr. President, our system of government is based on a separation of powers and checks and balances. That is the way the Founding Fathers structured it, and it is a system that has fostered America's greatness for over 200 years. Yet, this bill would fundamentally change and unbalance that system by transferring power from Congress to the President.

Some argue that this bill is unconstitutional. In a letter to Congress, L. Ralph Mecham, secretary of the Judicial Conference, stated that he fears that this bill will violate the separation of powers. He writes, "The doctrine of separation of powers recognizes the vital importance of protecting the judiciary against interference from any President. This protection needs to endure. Control of the judiciary's budget

rightly belongs to the Congress and not the executive branch."

Furthermore, an article in today's New York Times stated that the line-item authority poses "a threat to the independence of the judiciary because a President could put pressure on the courts or retaliate against judges by vetoing items in judicial appropriations bills." The article stated that Judge Gilbert Merritt, chairman of the executive committee of the Judicial Conference of the United States, stated that "judges were given life tenure to be a barrier against the winds of temporary public opinion. If we don't have judicial independence, I'm not sure we could maintain free speech and other constitutional liberties that we take for granted."

It is not clear what the Supreme Court will find when this law is challenged. But what is clear to me is that this bill is anticonstitutional. It is counter to the philosophy of the Constitution. The Constitution clearly separated each branch of government, giving each specific duties—and did so for a reason.

If one reads the Constitution, it is clear that the Framers deliberately placed the power of the purse in the hands of Congress. Article I, section 8 of the Constitution states, "The Congress shall have Power To lay and collect Taxes, Duties, Imposts and Excises, to pay the Debts and provide for the common Defense and general Welfare of the United States."

Power over the purse has consistently rested in the hands of the Representatives and Senators of our country. This power is critical in maintaining our system of checks and balances. The measure before us today would shift that power away from Congress and put it in the hands of the President. It allows the President to unilaterally change a law after it is enacted—to cut off spending Congress has deemed necessary.

Moreover, this bill is contrary to its intended purpose: Deficit reduction. Some of my colleagues did not support the balanced budget amendment to the Constitution, but I did. I supported it because it covers every dollar of spending and taxing. This bill does not. Furthermore, the balanced budget amendment did not upset the balance of powers between the branches. This bill does.

There is a cliche that to every problem there is a simple wrong solution. Do we have a deficit problem? Yes. Will this bill solve our fiscal crisis? No. This bill is the wrong solution to our deficit problems. It is almost solely aimed at discretionary spending, which is clearly not one of the major causes of the budget crisis the Federal Government is facing.

I served on the Bipartisan Commission on Entitlement and Tax Reform. If we do not act, by the year 2012 entitlement spending will outstrip revenues. So discretionary spending could be cut to zero and still not solve our problems. Domestic discretionary spending has not grown as a percentage of the GDP since 1969, the last time we had a balanced budget. Domestic discretionary spending comprises only one-sixth of the $1.5 trillion Federal budget, and that percentage is steadily declining.

In practice this bill will have a minimal impact on the deficit. Yet this bill will have a high impact on the level of the public's cynicism because it will not solve our country's budget crisis. Congress is already having difficulty passing its 12th continuing resolution and the American people already have doubts about Congress' ability to pass funding measures. To reaffirm our commitment to the American people's priorities, we should remind ourselves of what we swore to do when we entered office: to uphold the Constitution. This line-item scheme violates the philosophy of that document.

Spending authority rests primarily with Congress because our Nation's Founders thought that that was the best small "d" Democratic thing to do. 535 Members of Congress by definition are closer to the people than the President. Members of Congress are elected from all over the country reflecting their constituents' interests, be they urban or rural. Can one executive reflect the needs of our Nation's varied constituencies better than a Member of the House who has to run every 2 years? The President, as stipulated in the Constitution can only face the people twice, and one of those times is before he takes office.

Part of our Nation's success is due to our healthy mistrust of the centralization of authority. The Founding Fathers did not create a unitary system like in France. They built a country based on a union. As Jefferson once said, "the way to have good government is not to trust it all to one, but to divide it among the many, distributing to every one exactly the functions he is competent to perform." The Founders thought that Congress was competent to legislate our spending bills, not the executive. More than 200 years of success is hard to argue with.

As we all know, it can take several months of work to get a bill signed into law. Under current law, the House and Senate can pass a bill and then send it to conference where the differences between the House and Senate versions of the bill are resolved. Oftentimes conferees spend hours, even days and weeks, working to resolve differences, so that both Houses can support the end product. This can be a delicate proceeding, calling for compromise and flexibility.

Upon completion of conference the House and Senate vote on the conference report and send the bill to the President for signature. Under this legislation, if the President decides to sign the bill, he could then decide to strike out, for instance, specific spending provisions in an appropriations bill. Under this bill, the President would also have the power to line-item out items that are listed in graphs, tables, charts, conference committee's statement of managers, or portions of a committee report not superseded by the conference report. The scope of possible rescissions is enormous.

If Congress disagreed with the President's rescissions, they could pass a disapproval bill which would have to be passed by both Houses, get through conference, and be passed again. Should the President proceed to veto to the disapproval bill, it would take two-thirds of the Members in each Chamber to override the President's veto. Since we have not even been able to pass a budget this year, I tremble to think what adding additional steps to the process will do to Congress' ability to act.

Clearly this is the most significant delegation of authority to the President that we have seen in over 200 years. If Congress passes this conference report we will abdicate our authority guaranteed to us under the Constitution, and give it to the President. Moreover, although this bill seeks to solve our fiscal problems, it could also serve to indirectly increase spending. For instance, if the Administration sought to increase spending for a mandatory program, he could lobby the Member to support his initiative by threatening to line-item out all of the appropriations for projects in that Member's district. As my friend Ab Mikva wrote in the March 25th edition of Legal Times, "For those of us who think that the executive branch is strong enough, and that an imperial presidency is more of a threat than an overpowering Congress, the current balance of power is just right."

Mr. President, the Founding Fathers carefully wrought our Constitution to include the doctrine of separations of powers. I believe that this conference report goes against that philosophy and ultimately, will have little effect on solving our fiscal problems, for these reasons, I will not support this report.

Mr. LAUTENBERG. Mr. President, I rise in strong opposition to this conference report. There is a right way and a wrong way to provide the President with a line-item veto. This is the wrong way.

Mr. President, I have supported a line-item veto in the past. I believe that the President should have greater authority to weed out wasteful tax breaks and unnecessary weapon systems.

But this legislation goes too far.

I have three major objections to this conference report.

First, this legislation cedes too much power to the President. Under this proposal, any President and one-third plus one in the House can stop any appropriated item. This legislation goes much further than the so-called separate enrollment bill that passed the Senate. The legislation before us, in effect, allows the President to veto report language and tables in Committee reports. This means that the President can veto airport improvement funds for Newark but keep funds for Kennedy and LaGuardia airports. And the only way to override this type of veto is to get two-thirds of the Members in both House to support an individual item—which is highly unlikely.

The President of the United States already has awesome constitutional power. Look at what has happened in the past 6 months.

The President vetoed a Republican budget that made huge cuts in Medicare and Medicaid to pay for tax breaks for the rich. He stopped this cold.

He also vetoed a welfare reform bill that would have doomed 1.5 million children to live in poverty.

Finally, he vetoed spending bills that made deep cuts in education, environment, and community policing.

Mr. President, the Congress was never able to override these vetoes. This demonstrates how powerful the Presidency can be when it comes to vetoing unfair budget priorities. We should not provide the chief executive with this new power on top of the tremendous power he already possesses.

Second, this legislation makes a mockery of applying the line-item veto to tax breaks. The Senate bill originally allowed the President to use the line-item veto to stop some tax breaks. These breaks were defined far too narrowly. But even this language did not survive conference.

This conference report only allows the President to veto tax items that affect fewer than 100 persons. This means that Congress can pass a tax break that only applies to people with incomes over $1 million and the President could not single this out. Furthermore, the language also exempts other classes of persons from the tax provisions of the bill. One such exemption is property. Therefore, if Congress passed a tax break for 99 owners of a certain type of yacht, the President could not veto this provision.

In summary, this legislation allows the President to use the line-item veto to reject investments in education and the environment but not to reject tax breaks for millionaires. This is preposterous.

Finally, I object to the Republican political hypocrisy that went into choosing an effective date and sunset date for this legislation.

This bill was a part of the so-called Contract With America. The House passed its version of this bill on February 6, 1995. The Senate passed its version on March 23, 1995.

During debate on this legislation, I heard many Republicans in both Houses say that they were so committed to passing this legislation that they were even willing to give this power to a Democratic President. They argued how important the line-item veto was to cut out wasteful spending and unnecessary tax breaks.

Despite all of the clamoring by the Republicans, they began to drag their feet so that they would not have to give this power to President Clinton. They delayed naming conferees on the bill. They stalled on calling a meeting for the conferees. They kept dragging it out so that they could pass the fiscal year 1996 appropriations bills before the line-item veto bill became law.

During this period of inaction, the Republican majority sent President Clinton a pork-laden Defense appropriations bill that spent $7 billion more than the Pentagon wanted. This is when President Clinton really needed the line-item veto—so he could reject this $7 billion in unnecessary spending. But he did not have this tool then. The Republicans were simply playing politics with the line-item veto bill.

Now, we find ourselves with an entire new set of dates in this legislation. This bill will now go into effect on January 1, 1997 and it will last 8 years.

Mr. President, this is so blatantly political. But this is not the reason why we should reject this conference report. We should vote this down because it cedes too much power to the President and renders him powerless to fight tax breaks to the wealthiest Americans.

I urge my colleagues to reject this conference report.

I yield the floor.

Mr. CRAIG. Mr. President, I rise in support of S. 4, the conference report on the Line-Item Veto Act. The Senate is now wrapping up a long-overdue and historic debate.

I note that two words in particular sound very good in this debate: conference report. There must be many Members in both the Senate and the other body who have wondered if they would ever hear those two words used in connection with the line-item veto.

I want to recognize and commend the leadership and longstanding commitment that Senators MCCAIN and COATS have shown on this issue, as well as Chairman DOMENICI and Chairman STEVENS, for their work in shepherding this legislation through committee, earlier passage in the Senate, and now, the conference process.

I also want to express my appreciation for the leadership of our distinguished majority leader, Senator DOLE, in bringing this vital reform to the floor. His name was at the top of this bill when several of us first introduced S. 4 on the first day of this 104th Congress, January 4, 1995, and he has been solidly committed to passage of this landmark legislation.

There are three principal reasons to enact this kind of reform:

First, a line-item veto will promote fiscal responsibility.

This is a major step on our way toward a balanced budget.

For more than 20 years, since the President was hamstrung by some of the lesser provisions of the 1974 Impoundment Control and Budget Act, congresses have ignored with impunity most of the Presidential recommendations to rescind spending authority for individual items.

Now, at least some obnoxious, unwarranted spending will be struck down.

Opponents of this bill have argued that it would lead to more spending, as Presidents use the leverage of the line-item veto to get more spending for their pet programs, or as Congress loads still more spending into bills, in hopes that at least some of it will get by the President. Alternatively, they argue that Presidents will abuse this power and fundamentally distort the balance of constitutional power between the executive and legislative branches.

But the histories of the 43 States that have given their Governors this veto authority do not bear out these dire—and purely theoretical—warnings.

The experience of the States with the line-item veto, including that of my State of Idaho, has been uniformly favorable.

And, looking back over the last two or three generations, we see that State governments have increased spending and taxes at much lower rates than the Federal Government.

It is an amazing concept for some in Washington, DC, but, when you assign someone responsibility—in this case, the responsibility that comes to chief executives with line-item veto authority—they often live up to high expectations. That has been the experience of the Sates.

Alone, the line-item veto process is not going to be enough to balance the budget.

What we really need is to take up the balanced budget amendment to the Constitution once more, pass it, and send it to the Sates—send it to the people—for ratification.

I challenge President Clinton, who at least saw the light on the line-item veto, to support the balanced budget amendment as well, and help pass it through the Senate so we can attack the cancerous Federal debt on a larger scale.

Second, the line-item veto will improve legislative accountability and produce a more thoughtful legislative process.

Starting when this act takes effect, Congress will be forced to reconsider questionable spending items and targeted tax breaks—items that Congress

would never pass in the first place if those items were considered on their own merits—items that just do not stand up under any amount of public scrutiny.

It would cast an additional dose of sunlight on the legislative process.

We are all familiar with the rush to get the legislative trains out on time.

That means bills and reports spanning hundreds of pages that virtually no one is able to read—much less digest—in the day or two that they are before the body.

Moreover, any more it seems that virtually every appropriations bill—even the 13 regular bills—and virtually every tax bill, is a huge bill.

Knowing that any individual provision may have to return to Congress one more time to stand on its own merits will promote more responsible legislation in the first place.

In short, embarrassing items will not be sneaked into these bills in the first place.

Third, a line-item veto would improved executive accountability.

There is always some concern that the line-item veto would transfer too much power from the Congress to the President.

First, I suggest that is not such a bad thing. The Framers of the Constitution never envisioned 1,500-page, omnibus bills presented to the President on a take-it-or-leave-it basis.

This is not a swipe at the constitutional system of checks and balances—it is a correction. The system is broken. This is one of the first steps in fixing it.

The supposed blackmail that Presidents will exert over Congress as a result of the line-item veto, is nothing, compared what kind Congress has exerted for years on the President.

A President will rarely, if ever, risk closing down an entire department in a mere attempt to take out a handful of earmarked, local benefits.

But let me also differ a little with the presumption that a radical shift of power would take place.

Many of us on both sides of the aisle have suggested, at different times, that Presidents are not always serious about the rescissions messages they send to Congress.

And, sometimes, the volume of rescissions they propose do not live up to tough talk about what they would do if they had the line-item veto.

It is time to call the President's bluff—and I mean every President, because this is a bipartisan issue.

For years now, we have seen groups like Citizens Against Government Waste and others come up with billions of dollars in long lists of pork items.

Once the President starts using the line-item veto authority, he or she will have to answer to the people if the use of that authority doesn't match the Presidential rhetoric.

Congress would not lose the power of the purse—but the President will soon be expected to use the power of the spotlight of heightened public scrutiny.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER (Ms. SNOWE). The majority leader.

Mr. DOLE. Madam President, I ask unanimous consent that a vote on the adoption of the conference report accompanying S. 4, the line-item veto bill, occur at 7 p.m. this evening, with the time between now and the vote to be equally divided between Senators MCCAIN and BYRD.

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

Mr. JOHNSTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. JOHNSTON. Madam President, I rise in support of the position of the Senator from West Virginia, Mr. BYRD, on the line-item veto.

The PRESIDING OFFICER. Who yields the Senator time?

Mr. BYRD. How much time do I have under my control, I ask the Chair?

The PRESIDING OFFICER. The Senator has 25 minutes.

Mr. BYRD. Twenty-five minutes. I yield 5 minutes to the distinguished Senator from Louisiana.

Mr. JOHNSTON. I thank the Senator.

Madam President, this matter is not about balancing the budget, it is not even about the size of the deficit. This matter is about the relative power of the Chief Executive of the United States and the Congress of the United States. Why this Congress, this Senate, would want to give up its constitutional powers, which, by the way, I do not believe under the Constitution they have the right to do even if they wish to do that foolish thing, but why we would want to do that, I do not know.

I am particularly surprised, Madam President, that some of my colleagues on the other side of the aisle who fought so hard, for example, for star wars, why they would want to give to the President the right to veto star wars. I happen to have been an opponent through the years of star wars, at least at the levels of expenditure—$33 billion has been spent on star wars so far. I think that is a tremendous waste.

But, Madam President, I defend the right of this body and of this Congress to set those priorities. Why you would want to give it to the President to be able to change a bill already signed into law and just nit-pick that bill without taking out the whole bill, I do not know, Madam President.

Yesterday, there was an article in one of the Louisiana papers in which it said, "Louisiana delegation gets piece of pork." They went on to describe an appropriation that Congressman LIVINGSTON and I had gotten in the New Orleans area because we had a flood down there of biblical proportions, over 20 inches of rain in a 24-hour period, seven people killed, $1 billion in damage. We were able to respond to that issue.

They went on to define "pork" as that which was not in the President's budget. If the Congress exercised its power under the Constitution, the power of the purse, then that was pork, according to this article and according to the National Taxpayers Union. But had it been in the President's budget, it would have been perfectly all right.

The idiocy of that kind of formulation, Madam President, is to me, absolutely incredible. Coming from a newspaper article, it is not unexpected because that is the kind of thing that people like to read. But coming on to the floor of the Senate and Senators saying it is the White House that knows best, it is—and we are not talking about the President; we are talking about the nameless, faceless gnomes in the White House who would be setting priorities, making policies, making the decisions about our constituents.

Our constituents would be coming to us, as in the case of this 20-inch flood. You bet I was down there after the flood, as were my colleagues, going through the homes, looking at the devastation, trying to sympathize with the people, they demanding in turn that we do something about this terrible tragedy. Our colleagues are saying, "Look, if it's not in the President's budget, it should not be part of the bill. It is up to the White House to set those priorities."

Madam President, there was nobody from the White House down in Louisiana to see that flood. They could not be. The Office of Management and Budget does not have that kind of travel budget. They did not go down and look at the individual problems of individual States. That is the job for elected representatives. That is what the redactors of our Constitution had in mind. That is why they put the power of the purse in the Congress.

We are closest to the people, and we respond to them. To leave all of that power in, as I say, not the President—maybe the President would decide on star wars or some big item like that, but the accumulation of items in that budget would be decided by OMB. And what would be the policy of OMB? They would have to have broad policies, such as to say, if it is not in the President's budget, we are going to veto it. We are going to treat everybody alike.

The PRESIDING OFFICER. The Senator's 5 minutes have expired.

Mr. JOHNSTON. One additional minute.

Mr. BYRD. I yield 1 additional minute.

Mr. JOHNSTON. Madam President, the shift in power which this would bring out would be absolutely mind-boggling to me. You know, the whole fight would be, "Can you get in the

President's budget or not?" It would make total supplicants of all Members of Congress. You might like that if you like the President. I think this President is going to be reelected. I like him. I must say I do not like him enough to turn over to him, and to all of his successors, the power of the purse when it is vested by the Constitution in this Congress.

Madam President, my colleague, Senator BYRD, and others, made a powerful statement about the unconstitutionality of this provision earlier today. They surely are right. If we do not stand up for the rights of the Congress under the Constitution, I hope the courts will. I will support the Senator from West Virginia.

Mr. BYRD. Madam President, I thank the distinguished Senator. I yield the remainder of my time to Senator SARBANES.

Mr. SARBANES. Ten minutes?

Mr. BYRD. Ten minutes.

The PRESIDING OFFICER. The Senator from Maryland is recognized for 10 minutes.

Mr. BUMPERS. Would the Senator from West Virginia give me 1 minute prior to the Senator from Maryland speaking and it not come off the Senator's time?

Mr. BYRD. I yield 10 minutes to Senator SARBANES, but first 1 minute to Senator BUMPERS.

The PRESIDING OFFICER. The Senator from Arkansas is recognized.

Mr. BUMPERS. I thank the Senator from Louisiana for a very powerful, cogent statement. No. 2, I want to say to my colleagues that, if by some chance the Supreme Court does not rule this unconstitutional, you will never be able to take this power back. Thirty-four Senators can keep you from ever taking this power back. It will be gone forever.

When the Framers assembled in Pennsylvania, in Philadelphia, in 1787, the one thing they knew above everything else was they had had all the kings they wanted. They wanted no more kings. And they succeeded admirably. We have had 43 Presidents and no kings—until now. We are doing our very best to transfer kingly powers to the President of the United States. I thank the Senator for yielding.

Mr. SARBANES addressed the Chair.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. SARBANES. Madam President, I want to express my very deep appreciation to the distinguished Senator from West Virginia, Senator BYRD, for the extraordinary statement which he made earlier today on this issue. It is my prediction that, if this measure passes and is implemented, history will look back on this moment and say that was a critical turning point in our constitutional system and that it was the Senator from West Virginia, above all others, who stood on the floor and warned of what this would bring about; that it was the Senator from West Virginia who understood our existing constitutional system the best and saw the dangers inherent in this proposal.

Part of what is happening here is that we are engaged in symbolism, not the reality of addressing important national problems. There is a skilled craftsmanship in addressing problems of public policy which members of a legislative body are supposed to bring to the task. Anyone can get up and holler about problems. The question is, can you formulate an appropriate response?

As the distinguished Senator from Louisiana said, this proposal is not really about balancing the budget. You balance the budget by tough-minded decisions on the budget, which the President and the Congress have been making in recent years.

What is happening here is an enormous transfer of authority from the legislative branch to the executive branch that completely contravenes and contradicts the Constitution, so much so that I believe when tested in the courts, this measure will be found wanting. I fervently hope that will prove to be the case. This proposal gives the President the power, or purports to give the President the power, once he signs a piece of legislation into law, to then take out of that law various items—actually, as many as he chooses to pick—by what is called rescinding appropriation items—that unmaking of existing law. The Congress then, in order to override that rescission, would have to pass a disapproval bill which the President can veto. Once he vetoes the disapproval bill it takes a two-thirds majority in both Houses to override the President's rescission.

Thus, under the proposal before us, the President, as long as he can hold on to one-third plus one of either the Senate or the House—not both bodies; either the Senate or the House—can determine every spending priority of this country. Think of that. The President and 34 Senators, or the President and 146 Members of the House—not "and," but "or"—can determine every spending priority of this Nation. Obviously this represents a fundamental reordering of the separation of powers and the check and balance arrangements between the legislative and the executive branch in our Nation's Constitution.

Unfortunately, there is a tendency to dismiss such broad-reaching constitutional questions. They were, however, very much at the forefront of the thinking of the Founding Fathers when they devised the Constitution in Philadelphia in the summer of 1787; a Constitution that I might observe has served the Republic well for more than 2 centuries. As the able Senator from West Virginia has observed a very carefully balanced arrangement was put into place and it has served this Nation well. Obviously, when we consider changing our Nation's basic charter we need to be very careful and very prudent.

Now, I submit it does not take great skill or vision to have a strong executive. Lots of nations have strong executives. In fact, if a country's executive is too strong, we call it a dictatorship. If we review history, even look around the world now, we can see clear examples of this. It is one of the hallmarks of a free society to have a legislative branch with decisionmaking authority which can operate as a check and balance upon the executive. Another hallmark is to have an independent judicial branch which can also operate as a check and balance in the system. It should be noted that we have received a letter from the Judicial Conference of the United States expressing their very deep concern about this measure and indicating that they feel it undermines the independence of the judicial branch of our Government.

That letter states in part:

> The Judiciary believes there may be constitutional implications if the President is given independent authority to make line-item vetoes of its appropriations acts. The doctrine of separation of powers recognizes the vital importance of protecting the Judiciary against interference from any President.

The Senator from West Virginia, to his enormous credit, is a great institutionalist. He believes in the institutions of our Nation and is concerned with maintaining their strength and vitality and resists the political fad of the moment. Our founders established a balanced Government with independent branches, not only an executive with power and authority, but a legislative branch with power and authority, and a judiciary that is independent. This measure significantly erodes the arrangement which has served the Republic well for over 200 years.

I invite all of my colleagues to stop and think for a moment about how this proposal opens up the opportunity for the executive branch, for the President, to bring enormous pressure to bear upon the Members of the Congress and therefore markedly affect the dynamics between the two branches.

The President could link—easily link, obviously will link, in my judgment—unrelated matters to a specific item in the appropriations bill. Suppose a Member is opposing the President's policy—perhaps somewhere around the world or on some domestic policy; perhaps a nomination which the President had made—and the President receives a bill which contains in it an item of extreme importance to the Member's district or State, justified under any criteria as serving the Nation's economic interest; for example, the dredging of a harbor, or the building of a road. The President calls the number and says he noticed this item,

he certainly hopes he does not have to rescind it. He does not want to do so. He knows it is meritorious. But at the same time, he has this other issue that he is very concerned about in which the Member is opposing him.

My friend from Louisiana spoke of how the line-item veto power would be used to directly neutralize congressional policy on a particular issue. A majority is in favor of a certain policy, the President pulls it out and negates it, holds on to one-third of one House, and that is the end of it—even though a clear majority in both Houses of the Congress wanted the policy.

The next step beyond rendering the congressional opinion null and void on a specific issue itself, is to link that issue to some other unrelated issue on which the President is seeking to obtain leverage over the Member of Congress. In fact, in the hands of a vindictive President, the line-item veto could be absolutely brutal. I want to lay that on the record today. In the hands of a vindictive President the line-item veto could be absolutely brutal. But you would not need a vindictive President for abuses. Presidents anxious to gain their way, as all Presidents are, will use this weapon to pressure legislators.

Mr. JOHNSTON. Will the Senator yield?

Mr. SARBANES. I am happy to yield to the Senator.

The PRESIDING OFFICER. The time of the Senator is expired.

Mr. BYRD. Mr. President, how much time do I have?

The PRESIDING OFFICER. The Senator has 7 minutes.

Mr. BYRD. I yield 2 additional minutes to Senator SARBANES.

Mr. SARBANES. I yield to the Senator from Louisiana.

Mr. JOHNSTON. Madam President, I wonder if the Senator finds this parallel: In a conference report, when the Senate and the House go to a conference committee, there are bargains struck, and finally a bill put together. Would it not be somewhat like being able to strike a bargain, putting the bill together, signing off on it, and then after the bill is signed, have one House strike all the items that the other House wanted?

Mr. SARBANES. You could absolutely redo the legislation.

I ask unanimous consent to have printed at the end of my remarks an article written by Judge Abner Mikva on this very point, called "Loosening the Glue of Democracy."

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

(See exhibit 1.)

Mr. SARBANES. Madam President, the Senator from West Virginia made a constructive proposal, which was just tabled, which would have allowed the President to propose rescissions to the Congress for consideration on an expedited basis, with the Congress having to vote on the rescission and with a majority vote required to approve the rescission. This would have enabled the President to spotlight those items of which he disapproved and required a congressional vote on them but would not have altered our basic constitutional arrangements.

The line-item veto tool contained in this legislation will not, in my judgment, become a way to delete appropriation items, but rather a tool and a legislative strategy used by the White House and executive branch to pressure Members on their positions on unrelated items. It will become a heavy, coercive weapon of pressure.

This is a dangerous departure from past constitutional practice, drastically shifting the balance between the executive and legislative branches. It will fundamentally alter our constitutional arrangement to the detriment of a system of government which has served well our Republic and been the marvel of the world.

Madam President, I close by again expressing my deep gratitude to the Senator from West Virginia for so clearly and eloquently setting forth the severe problems connected with this proposal.

EXHIBIT 1

[From the Legal Times, Mar. 25, 1996]

LOOSENING THE GLUE OF DEMOCRACY

THE LINE-ITEM VETO WOULD DISCOURAGE CONGRESSIONAL COMPROMISE

(By Abner J. Mikva)

There is a certain hardiness to the idea of a line-item veto that causes it to keep coming back: Presidents, of course, have always wanted it because the line-item veto represents a substantial transfer of power from the legislative branch to the executive branch. Government purists favor the idea because the current appropriations process—whereby all kinds of disparate expenditures are wrapped or "bundled" into one bill so that the president must either swallow the whole thing or veto the whole thing—is very messy and wasteful. Reformer generally urge such a change because anything that curtails the power of Congress to spend has to be good.

My bias against the unbundling of appropriations and other legislative proposals has changed over the years. When I first saw the appropriations process, back in the Illinois legislature, it seemed the height of irresponsibility to bundle dozens of purposes into a single bill. It also seemed unconstitutional since the Illinois Constitution had a "single purpose" clause, under which bills considered by the legislature were to contain only one subject matter. But the "single purpose" clause had been observed in the breach for many years by the time I was elected in 1956.

I first saw the bundling process work when a single bill, presented for final passage, appropriated money for both the Fair Employment Practices Commission and a host of other commissions, including one to provide services for Spanish-American War veterans (there were two left in the state at the time) and one to study the size of mosquitoes that inhabited the downstate portions of Illinois. If I wanted to vote for the FEPC, I had to swallow all those other commissions, which I thought were wasteful. So I invoked the constitutional clause. To my dismay, the legislature favored all the other commissions on separate votes, but the FEPC went down to defeat. That is how I learned that there are some pluses to the bundling process.

Bundling is very asymmetrical in effect and probably wasteful. But it is also a legislative device that allows various coalitions to form and thus moves the legislative process forward.

Consider South America, where regional rivalries and resentments in many countries make governing very difficult. The inability to form the political coalitions that are normal in this country creates enormous pressure on the central government. This pressure is certainly one of the causes of the mini-revolts that perpetually arise. The have-nots feel excluded from the process, while the majority (or the military regime) exercise their power without taking care of the depressed areas of the country.

It is more difficult to ignore the have-nots in the United States. First of all, members of Congress are elected as representatives of geographic areas, rather than as representatives of parties. Woe betide the congressman who starts thinking too much like a national legislator and forgets the parochial interests of his constituents.

Second, the separate elections of the president and Congress creates the necessity for the two branches to cooperate in setting spending priorities. Floating coalitions that take into account the needs of all the sections and groups in the country become essential. When urban interests wanted to promote a food program for the cities, for example, they formed a coalition with agricultural interests, and food stamps were joined with farm subsidies.

It is true that bundling encourages the merger of bad ideas with good ideas, and diminishes the ability of the president to undo the package. A line-item veto, which would allow the president to veto any single piece of an appropriations bill (or, under some proposals, reject disparate pieces of any other bill), makes the whole process more rational. But it also makes it harder to find the glue that holds the disparate parts of our country together. City people usually don't care about dams and farm policy. Their rural cousins don't think much about mass transportation or urban renewal or housing policy. If the two groups of representatives don't have anything to bargain about, it is unlikely that either set of concerns will receive appropriate attention.

The other downside to the line-item veto is exactly the reason why almost all presidents want the change and why, up to now, most Congresses have resisted the idea. The line-item veto transfers an enormous amount of power from Congress to the president. For those of us who think that the executive branch is strong enough, and that an imperial presidency is more of a threat than an overpowering Congress, the current balance of power is just right.

That has been the gist of Sen. Robert Byrd's opposition to the line-item veto. The West Virginia Democrat has argued that the appropriations power, the power of the purse, is the only real power that Congress has and that the line-item veto would diminish that power substantially. So far, he has prevailed—although last year, the reason he prevailed had more to do with the Republicans' unwillingness to give such a powerful tool to President Bill Clinton.

But now the political dynamics have changed. The Republicans in Congress can fashion a line-item veto that will not benefit

the incumbent president—unless he gets reelected—and their probable presidential candidate, Senate Majority Leader Robert Dole, has recently made clear that he wants this passed. Chances for the line-item veto are vastly greater.

There are some constitutional problems in creating such a procedure. The wording of the Constitution suggests pretty strongly that a bill is presented to the president for his signature or veto in its entirety. It will take some creative legislating to overcome such a "technicality." I reluctantly advised the president last year that it was possible to draft a line-item veto law that would pass constitutional muster. The draft proposal involved a Rube Goldberg plan that "pretended" that the omnibus appropriations legislation passed by Congress and presented to the president actually consists of separate bills for various purposes. This pretense was effectuated by putting language in legislation to that effect.

President Clinton was not then asking for my policy views, and I did not have to reconcile my advice with my policy bias toward the first branch of government—Congress. But I was uneasy enough to become more sympathetic to the late Justice Robert Jackson's handling of a similar dilemma in one of his Supreme Court opinions. He acknowledged his apostasy concerning an issue on which he had opined to the contrary during his tenure as attorney general. Quoting another, Justice Jackson wrote, "The matter does not appear to me now as it appears to have appeared to me then."

My apostasy was less public. My memo to the president was only an internal document, and I didn't have to tell him how I felt about the line-item veto. But now that I have no representational responsibilities, I prefer to stand with Sen. Byrd.

Mr. BYRD. Madam President, I thank the Senator for his excellent remarks.

Mr. DOLE. Madam President, I am going to yield 3 minutes of my leader time to the distinguished Senator from Nebraska. First, I will take 30 seconds and then put my statement in the RECORD. I have a meeting in the office.

I have been listening to some of the debate. I know the distinguished Senator from West Virginia certainly understands this issue better than any of us. But we sometimes disagree. The one thing we should not do is elect a vindictive President. I do not think the present occupant is or the one challenging the President is. So we will be safe for the next 4 years, I tell the Senator from Maryland, and probably 8.

I understand what someone could do to abuse the power of the Office of the President. But we have been negotiating all afternoon in my office. We have five appropriation bills, and we have been trying to figure out how we can come together on those, taking a little out here and adding a little here. It is very, very complicated these days. We are working with the White House.

I think many of the fears and concerns expressed would be if you had somebody in the White House who stiffed Congress on everything and refused to negotiate. Right now, in my office we are negotiating with the Chief of Staff, Mr. Panetta, and trying to come together on a big, big appropriation bill so that we can pass it on Friday. We may not get it done because they have their priorities, and Congress has its priorities. But I believe the line-item veto is an idea whose time has come.

I certainly thank all those involved, particularly the Senator from Arizona, Senator MCCAIN, and the Senator from Indiana, Senator COATS, with the great assistance of the Senator from New Mexico, Senator DOMENICI, and the Senator from Alaska, Mr. STEVENS.

This is not a partisan measure. President Clinton supports the line-item veto. I think it has support on each side of the aisle. I know the Senator from West Virginia wants to leave here by 7 o'clock.

Madam President, again I am proud that today the Senate is passing the conference report on the Line-Item Veto Act of 1996. Giving line-item veto authority to the President is a promise we made to the American people in the Contract With America, and it is a promise we are following through on today.

Line-item veto seems to be the one thing that all modern Presidents agree on. All of our recent Presidents have called for the line-item veto—both Democrat and Republican Presidents alike. And for good reason. The President, regardless of party, should be able to eliminate unnecessary pork-barrel projects from large appropriations bills.

Most of our Nation's Governors have the line-item veto. Some States have had line-item veto since the Civil War. There's a lot of experience out there in the States that shows us this is a good idea; 43 Governors have the line-item veto, and now—finally—the President will, too.

President Clinton and I have talked about the Line-Item Veto Act. He wants the line-item veto and we both think it is a good idea.

Certainly, line-item veto is not a cure-all for budget deficits. No one is pretending it is the one big answer to all of our budget problems.

But it is one additional tool a President can use to help keep unnecessary spending down. It's one way for us to fulfill our pledge to American taxpayers for less Washington spending.

Line-item veto has a lot of support in the Senate. We passed our version of the bill in the Senate just about a year ago on March 17, 1995 with the support of 69 Senators.

But I know some are worried that it shifts the balance of power away from Congress and to the President. Well, appropriations bills that go on for hundreds of pages have already altered the dynamic between the President and Congress from what it was 200 years ago.

Even so, for those who aren't so sure line-item veto is the right approach, this bill has a sunset in it. We will try this experiment for a few years and see if it works. I am confident it will. It is an idea whose time has come.

Mr. President, I want to thank Senators STEVENS, DOMENICI, MCCAIN, and COATS for their work on this bill. It is thanks to them that we are about to pass this important and historic legislation.

Madam President, I yield 3 minutes of my leader time to the Senator from Nebraska.

Mr. EXON. Madam President, my colleagues know that I am an ardent supporter of a line-item veto. I had one when I was Governor of Nebraska and put it to excellent use. It was crucial to my success in balancing the budget.

I am an original cosponsor of line-item veto legislation. I am proud of the leadership role I have taken. I fervently believe that the President of the United States should have at his disposal every possible means to strip away the pork from the Federal budget. The line-item veto should figure prominently in his arsenal.

Mr. President, I will vote for this conference report, but I will not conceal my keen disappointment at what has emerged after nearly a year of stalling, partisan games, and bickering. This is a classic case of what might have been. I was a conferee but as usual, the minority was shut out of the decisionmaking process. I also have some possible constitutional questions and concerns.

Anyone who doubts the partisanship behind this legislation need look no further than its effective date—January 1, 1997. I have supported the line-item veto under Republican Presidents and Democratic Presidents. Those of us who have long sought the line-item veto believe it is a good idea, regardless who sits in the White House.

So, we are in a big hurry to pass this legislation because it is a popular issue in an election year. But, there is no rush to make it effective. How strange. That can wait until after the Republican Congress has passed one last set of appropriation bills and perhaps, for good measure, one last bill loaded with special interest tax breaks.

I had great expectations for this legislation; so did many of my colleagues on both sides. What we got was diminished returns. It now seems that those of us who fought the good fight will reluctantly have to accept an inferior product. We desperately need this line-item veto—as flawed as it may be.

Even the staunchest advocate of a line-item veto must confess that the Senate bill did not age well in conference. We do not have a better bill today. The line-item veto before the Senate today is a half-measure. It only addresses one side of wasteful Government spending.

Madam President, there are different types of pork around here. There is

what I call classic pork, but it does not belong in a museum. It is the sweetheart awards, the bogus studies, the phony commissions, the make-work projects that look good to the constituents back home.

Frittering away the taxpayers' dollars is an affront to middle-income Americans who have been stretched and squeezed enough. This is where the line-item veto can be a fierce instrument against waste. The President can slice out the pork with a slash of his pen. In this regard, the measure before the Senate should accomplish today what we set out to do, and I salute the managers of the conference.

But the special interests who benefit from pork always seem to be one-step ahead of the deficit cutters. You might not find their pork on the menu of an appropriations bill. But they are still dining a la carte at the Finance or Ways and Means Committees, and yes, the Budget Committee too.

They dress up pork in the latest fashion: special interest tax breaks or tax expenditures. That is right, Mr. President. It is still pork, but it will be riveted onto a revenue bill or a budget reconciliation bill—like the one the Republican majority passed last fall. Call it a tax loophole or whatever you want, it is still just as wasteful, and it is still just as shameful as appropriated pork spending.

This problem of tax expenditures is not new. We have visited it many times, but with little resolution. The Budget Committee held hearings going back to 1993 on the budgetary effects of tax expenditures. OMB Director Dr. Alice Rivlin testified, and I quote, "Tax expenditures add to the Federal deficit in the same way that direct spending programs do."

I believe, and many of my colleagues on both sides agree, that if we are serious about cutting wasteful spending, if we are serious about reducing the deficit, if we are serious about a credible line-item veto, we should include special interest tax loopholes in the list of what the President can line out.

What should shine forth from this conference report is an attack on both wasteful appropriated spending and tax benefit pork. But the long arm of the special interests reached into the conference and turned off the lights when tax loopholes were put on the table.

From what I have seen of the conference report language, it could be virtually impossible for the President to veto special interest tax breaks, or as they are now called, limited tax benefits. There are so many exceptions that any tax lobbyist worth his salt will be able to write legislation in such a way that they will not be subject to the line-item veto procedure. And mark my words, they will.

The conference report language defines a tax benefit as a revenue-losing provision that does one or two things. It could provide a Federal tax deduction, credit, exclusion, or preference to 100 or fewer beneficiaries. What is more, there are exclusions for tax breaks that target persons in the same industry, engaged in the same type of activity, owning the same type of property, or issuing the same type of investment.

The exclusions do not end here; quite the contrary, they are expanded. There are exceptions for individuals with different incomes, marital status, number of dependents, or tax return filing status. For businesses and trade associations the exclusion could be based on size or form.

That is so limited, it does not exist. It is nearly impossible to think of any provision that it would cover. In fact, I do not believe that more than one or two of the more than dozens of tax provisions in the last year's Republican budget reconciliation would be subject to a Presidential line-item veto under the report language. And that bill was drafted before the lobbyists needed to draft their way around the line-item veto.

The exceptions are troubling enough, but it gets worse. Who defines a targeted tax benefit for the purposes of the line-item veto? I was surprised to learn that it will be the Joint Committee on Taxation. I, certainly, do not intend to disparage the committee and its fine members, but this oversight duty strikes this Senator like the proverbial fox guarding the henhouse. This conference report would make Aesop proud.

This is how it works. Under the provisions of the conference report, Joint Committee on Taxation will review every tax bill and decide whether the bill includes any tax loopholes, called limited tax benefits. The Joint Committee then gives its ruling to the conference committee, which gets to choose whether to include that information in its conference report. Recall that it is very often the staff of this same Joint Committee on Taxation that drafts the tax loopholes in the first place.

Here is the kicker. If the JCT statement is included, the President can rescind only, and I repeat, only those items identified in the legislation as limited tax benefits. The JCT declaration is more than a piece of paper. It is a declaration of immunity for what could very well be a limited tax benefit. It is an inoculation against a Presidential line-item veto. It is the magic bullet for tax lobbyists.

I do not believe that any of my colleagues fell off the turnip truck yesterday. We know how lobbyists work. I guarantee you that they will be swarming over JCT like the sand hill cranes returning to the Platte River in Nebraska. JCT will be thick as thieves with tax lobbyists. And for good reason, the committee will have the sweeping power to grant unprecedented immunity to any Tom, Dick, or Harry with a sweetheart tax deal.

Madam President, I am disappointed by the final product the conferees bring to the floor today. It is a tarnished reflection of the hopes I brought to the process. Yes; we should have done better. Yes; we should have attacked pork in all of its guises, Yes; we should have been tougher. But I have my doubts that more time and more debate will produce a different result—a superior result. I tell my colleagues that giving the President at least some power to rein in wasteful spending is better than doing nothing. So today, I will cast my vote for taking a small, but clear, step in the right direction. I urge my colleagues to do the same.

I yield my remaining time.

Mr. MCCAIN. Madam President, I yield 3 minutes to the Senator from South Carolina, Senator THURMOND.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. Madam President, I rise in support of the conference report accompanying S. 4, the Line-Item Veto Act. For many years, I have been a supporter of giving authority to the President to disapprove specific items of appropriation presented to him. On the first legislative day of this Congress, I introduced Senate Joint Resolution 2, proposing a constitutional amendment to give the President line-item veto authority.

Presidential authority for a line-item veto is a significant fiscal tool which would provide a valuable means to reduce and restrain excessive appropriations. This proposal will give the President the opportunity to approve or disapprove individual items of appropriation which have passed the Congress. It does not grant power to simply reduce the dollar amount legislated by the Congress.

Madam President, 43 Governors currently have constitutional authority to reduce or eliminate items or provisions in appropriation measures. My home State of South Carolina provides this authority, and I found it most useful during my service as Governor. Surely the President should have authority that 43 Governors now have to check unbridled spending.

It is widely recognized that Federal spending is out of control. The Federal budget has been balanced only once in the last 35 years. Over the past 20 years, Federal receipts, in current dollars, have grown from $279 billion to more than $1.3 trillion. In the meantime, Federal outlays have grown from $332 billion in 1975, to more than $1.5 trillion last year, an increase of greater than $1.1 trillion. Annual budget deficits have reached $200 billion, with the national debt growing to more than $5 trillion.

Madam President, it is clear that neither the President nor the Congress are

effectively dealing with the budget crisis. The President continues to submit budgets which contain little spending reform and continue to project annual deficits.

If we are to have sustained economic growth, Government spending must be significantly reduced. A balanced budget amendment, which I am hopeful will still be passed this Congress, and line-item veto authority would do much to bring about fiscal responsibility.

Madam President, it would be a mistake to fail to pass this measure. It is my hope that this Congress will now approve the line-item veto and send a clear message to the American people that we are making a serious effort to get our Nation's fiscal house in order.

Madam President, I congratulate the conferees for their work on this bill. This conference report provides the President with a very narrow authority to cancel specific appropriations, direct spending, or limited tax benefits. Under this provision, the Congress retains its legislative power of the purse in that the Congress may enact a bill disapproving the President's previous cancellation. This bill, of course, would be subject to a Presidential veto and subsequent congressional override.

Madam President, the conference report also requires that any canceled budget authority, direct spending, or tax benefit be applied to deficit reduction. Canceled funds would not be available to offset additional spending.

Madam President, the line-item veto will introduce a new level of discipline in the Federal budget process. It will bring an additional level of scrutiny to items of Federal spending. The line-item veto, combined with a balanced budget amendment, true reforms in entitlement spending, and restraint in Federal appropriations, will put us back on the track of fiscal responsibility.

The PRESIDING OFFICER. Who yields time?

Mr. BYRD. I yield to the Senator from Michigan, Senator LEVIN.

Mr. LEVIN. Madam President, I thank the Senator from West Virginia. Again, I congratulate him for the extraordinary effort he has made to try to make us pay attention to the underlying issues here. The bill before us says that, notwithstanding certain provisions, bills which have been signed into law can be canceled by the President.

Never in the history of this body has the Congress attempted to give to the President the power on his own to cancel the law of the United States. The process is the President signs the appropriations bills. It is then the law of the land. Those words should have a certain majesty in this body. This appropriations bill now signed by the President is the law. But under the approach before us, the President would then have 5 days in which he can cancel a part or all of that law without congressional involvement. Yes, the Congress could vote to override the cancellation, but if the Congress does not, the cancellation action of the President canceling the law of the land stands.

Never in the history of Congress has there been an effort to hand to a President that kind of power. We are told the President of the United States supports this. Of course he does. Every President would love Congress to hand part of its power to the President. Every President would love a piece of the power of the purse. But the Constitution will not let us do it, and we should not try.

Mr. SARBANES. Will the Senator yield?

Mr. LEVIN. I am happy to yield.

Mr. SARBANES. In fact, the Constitution says:

> Every Bill which shall have passed the House of Representatives and the Senate, shall, before it becomes a Law, be presented to the President of the United States; if he approve he shall sign it, but if not he shall return it, with his Objections . . . .

I do not see how constitutionally a President can sign a bill, make it the law, and then undo the law through a procedure that would not have been permitted by the Constitution.

Mr. LEVIN. The Supreme Court has said it precisely in the Chadha case. I am going to read these words again. I read them earlier this afternoon.

> Amendment and repeal of statutes no less than enactment must conform with article I.

The Supreme Court has told us what the Constitution tells us, as the Senator from Maryland just read:

> Amendment and repeal of statutes no less than enactment must conform with article I.

This conference report comes up with a new procedure which does not conform with article I and says that the President may cancel—that means repeal, void—the law of the land of the United States of America. He can with his pen on day 1 create a law by signing our bill, and on day 2, 3, 4, 5, or 6 cancel what is then already the law of the land.

Madam President, the Constitution will not tolerate that. We should not even attempt to do such a thing. There have been many reasons given for why the line-item veto in one version or another would be useful in terms of deficit reduction. There are ways constitutionally of doing it. The Senator from West Virginia made that effort earlier this afternoon. The current conference report before us simply cannot stand muster.

Again, I thank my friend.

Mr. MCCAIN. Madam President, how much time remains?

The PRESIDING OFFICER. There are 22 minutes remaining.

Mr. MCCAIN. I yield 11 minutes to the Senator from Indiana.

The PRESIDING OFFICER. The Senator from Indiana is recognized.

Mr. COATS. Madam President, I thank my colleague for yielding. I appreciate the debate that we have had. It has been a long and difficult and sometimes tortuous road to this particular point.

It was in the early or late 1800's that the first attempt to provide the line-item veto power to the executive branch was offered in the Congress. There have been 200 attempts subsequent to that. So it has been a long effort.

The question was raised: Why would Congress cede its independence? Why would Congress cede its power of spending to the executive branch?—because it is an extraordinary effort; it is a historic effort. But I would say that the reason this is happening and the reason this will pass very shortly with a pretty substantial bipartisan vote is that there has been an extraordinary abuse of the power of spending. Despite every legislative effort and every promise and pledge on this floor, the egregious practice of blackmailing the President by attaching to otherwise necessary spending bills pork barrel projects, projects spending that does not have any relevance to the particular bill and would never probably stand the light of day in debate on that particular issue or receive a majority vote has been passed into law.

I would just say in response to the Senator from Michigan that we have had constitutional lawyers pour over this legislation for years and years. The Chadha decision does not apply to what we have done here. Constitutional lawyers from each end of the spectrum and in between have told us that the legislation that we are presenting is constitutional.

I would like to take this opportunity to thank some people for their extraordinary work on this. I acknowledge Senator BYRD's articulate and worthy opposition to this message throughout the years that we have been debating line-item veto. I want to thank Senator DOMENICI and Senator STEVENS for helping us at a critical time. They were key to a strong, workable compromise on the issue. Senator DOLE's leadership, his decision to make this happen, to break the impasse and achieve a compromise, was absolutely critical to our success. Particularly, it is a privilege for me to thank my friend and colleague, JOHN MCCAIN from Arizona, for his efforts in this regard. I deeply respect his determination. He has been tireless in his fight against the current system and the status quo. He has persevered in long odds, in the face of what often looked like a losing battle. We joined together 8 years ago in a commitment to pass a line-item veto, and it has been my privilege to partner with him in this effort.

Madam President, this measure, in my opinion, is the most important Government reform that this Congress

for many Congresses has addressed. Yes, a line-item veto will help reduce the deficit. Yes, a line-item veto will eliminate foolish waste. But our ultimate objective is different. Our current budget process is designed for deception. It requires the disinfectant of scrutiny and debate.

When we send spending to the President that cannot be justified on its merits, it is attached more often than not to important appropriations bills. This has tended, first, to tie the President's hands, leaving him with a take-it-or-leave-it decision on the entire bill.

Second, it is used as a means of obscuring spending in the shuffle of uncounted billions of dollars of appropriations.

When we hide our excess behind a shield of vital legislation, our aim is plain. We do it to mask our wasteful spending by confusing the American taxpayer. We have created a system that avoids public ridicule only because it consciously attempts to keep our citizens from knowing how their money is spent. This is not a rational process. This is a deception. It is a trick, and it must stop. It is more than abuse of public money; it is a betrayal of public trust.

But now we have an opportunity to end that abuse and restore that trust. We have a chance to pass legislative line-item veto in a form that has gained support from both parties and in both Houses of Congress. We have the power to make our goal of budget reform a reality. It is not all that we need to do, but it is a huge leap forward.

The line-item veto is designed to confront our deficit and to save taxpayers' money. We have shaped this legislation to accomplish that purpose through a lockbox, ensuring that all the savings canceled by the President go forward toward deficit reduction.

The line-item veto is not a budgetary trick. Unlike the appropriations possess that currently exists and has existed from the beginning of this legislation, nothing is taken off budget. No pay dates are altered. It is a substantive change aimed at discouraging budget waste by encouraging the kind of openness and conflict that enforces restraint.

The goal is not to hand the Executive dominance in the budget process. The goal is the necessary nudge toward an equilibrium of budget influence strengthening vital checks on excess. But I think it does something more. I think the real benefit of the line-item veto is that it exposes a process that thrives on public deception. It is a lasting, meaningful reform—changing the very ground rules of the way this legislature has operated.

We have reached a historic decision, a historic moment. The first line-item veto, as I said, was introduced 120 years ago, interestingly enough, by a Congressman from West Virginia, Charles Faulkner. It died then in committee, and since then nearly 200 line-item veto bills have been introduced, each one buried in committee, blocked by procedures or killed by filibusters.

Today we have not been blocked. Today we have not been killed. And this issue will no longer be ignored or no longer be denied. The House and the Senate are in agreement. The President is in agreement. The public is in agreement. And now just one final vote remains.

This measure is a milestone of reform. It is the first time that the Congress will voluntarily part with a form of power it has abused. That is the result of a public that no longer accepts our excesses and excuses. But it is also evidence of a new era in Congress, proof of a sea change in American politics. This vote will prove that Congress can overcome its own narrow institutional interests to serve the interests of the Nation. That will be something remarkable, something of which every Member who supports this legislation can rightfully be proud.

With this vote, let us show the American people we are serious about changing the way this Congress works. Let us show them a legislative process conducted without deception and without the embarrassment we always feel when it is exposed. Let us show them that their tax money will no longer be wasted on favors for the few at the expense of the many. Let us show them that business as usual in Congress is finally and decisively over.

Madam President, I yield the floor. I yield back any additional time that was yielded to me.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Madam President, I yield myself the remaining time.

Madam President, a number of comments and statements have been made about this legislation, and due to a shortage of time I would not be able to respond to them. With the help of my friend and colleague from New Mexico, we will submit a long statement for the RECORD tomorrow in response to some of the comments and statements that were made about the impact of the line-item veto. I think it is important that the record be clear in response to some of those statements as I think in future years historians may be looking at the debate that took place in the Chamber today.

Madam President, we have nearly arrived at a moment I have sought for 10 years. In my life, I have had cause to develop a very keen appreciation for the value of time, and that appreciation has made it unlikely that I will soon enjoy a reputation for abiding patience. I confess my great eagerness for this day's arrival. The line-item veto's elusiveness has encouraged in me if not patience, then certainly respect for those who possess it in greater quantity than I.

Ten years may be but a moment in the life of this venerable institution, but it is a long time to me. In a few minutes, the issue will be decided. I am gratified beyond measure that the Senate is now apparently prepared to adopt S. 4, the line-item veto conference report, that its adoption by the other body is assured, and that the President of the United States will soon sign this bill into law.

I am deeply grateful to my colleagues who have worked so hard to give the President this authority. I wish to first thank my partner in this long, difficult fight, my dear friend, the Senator from Indiana, [Mr. COATS]. His dedication to this legislation has been extraordinary and its success would not have been possible absent the great care and patience he has exercised on its behalf.

I would like to thank Mark Buse on my staff and Sharon Soderstrom and Megan Gilly on Senator COATS' staff.

Madam President, I am grateful to the chairman of the Budget Committee, Senator DOMENICI, and the chairman of the Governmental Affairs Committee, Senator STEVENS. There have been moments in our conference when my gratitude may not have been evident, but I would not want this debate to conclude without assuring both these Senators of my respect for them and my appreciation for their sincere efforts to improve this legislation. We may have had a few differences on some questions pertaining to the line-item veto, but I know we are united in our commitment to the success of S. 4.

I also wish to thank the assistant majority leader, Senator LOTT. As he often does, amidst the confusion and controversies that often define conferences, he managed to identify the common ground and bring all parties to fair compromises and broad agreement.

Finally, let me say to the majority leader, Senator DOLE, all the proponents of the line-item veto know that without his skillful leadership, without his admonition to put differences over details aside for the sake of the principle of the line-item veto, we would not now stand at the threshold of accomplishing something of real value to this Nation. He is, as former baseball great Reggie Jackson once described himself, "the straw that stirs the drink" around this place.

The rules and customs of the Senate are not revered as inducements to action but, rather, for their restraining effect on ill-considered actions. Few things of real importance would ever occur here without Senator DOLE's leadership. The advocates of this legislation have cause to celebrate his leadership today, but I think even the opponents of this particular measure

could refer to the many occasions when all Senators have had cause to celebrate Senator DOLE's leadership of the Senate.

Madam President, the support of my colleagues for the line-item veto have made this long, difficult contest worthwhile and an honor to have been involved in, but even greater honor is derived from the quality of the opposition to this legislation. And every Senator is aware that the quality of that opposition is directly proportional to the quality of one Senator in particular, the estimable Senator from West Virginia, Senator BYRD.

Madam President, I would like to indulge a moment of common weakness of politicians. I wish to quote myself. I wish to quote from remarks I made 1 year ago when we first passed the line-item veto. I said at that time that "Senator BYRD distinguished our debate, as he has distinguished so many of our previous debates," as he has distinguished today's debate, "with his passion and his eloquence, his wisdom and his deep abiding patriotism. Although my colleagues might believe I have eagerly sought opportunities to contend with Senator BYRD, that was, to use a sports colloquialism, only my game face. I assure you I have approached each encounter with trepidation. Senator BYRD is a very formidable man."

Madam President, I stand by that tribute today. If there is a Member of this body who loves his country more, who reveres the Constitution more, or who defends the Congress more effectively, I have not had the honor of his or her acquaintance. Should we proponents of the line-item veto prevail, I will take little pride in overcoming Senator BYRD's impressive opposition but only renewed respect for the honor of this body as personified by its ablest defender, Senator ROBERT BYRD.

Senator BYRD has solemnly adjured the Senate to refrain from unwittingly violating the Constitution. As I said, his love for that noble document is profound and worthy of a devoted public servant. I, too, love the Constitution, although I cannot equal the Senator's ability to express that love.

Like Senator BYRD, my regard for the Constitution encompasses more than my appreciation for its genius and for the wisdom of its authors. It is for the ideas it protects, for the Nation born of those ideas that I would ransom my life to defend the Constitution of the United States.

It is to help preserve the notion that Government derived from the consent of the governed is as sound as it is just that I have advocated this small shift in authority from one branch of our Government to another. I do not think the change to be as precipitous as its opponents fear. Even with the line-item veto authority, the President could ill-afford to disregard the will of Congress. Should he abuse his authority, Congress could and would compel the redress of that abuse.

I contend that granting the President this authority is necessary given the gravity of our fiscal problems and the inadequacy of Congress' past efforts to remedy those problems. I do not believe that the line-item veto will empower the President to cure Government's insolvency on its own. Indeed, that burden is and it will always remain Congress' responsibility. The amounts of money that may be spared through the application of the line-item veto are significant but certainly not significant enough to remedy the Federal budget deficit.

But granting the President this authority is, I believe, a necessary first step toward improving certain of our own practices, improvements that must be made for serious redress of our fiscal problems. The Senator from West Virginia reveres, as do I, the custom of the Senate, but I am sure he would agree that all human institutions, just as all human beings, must fall short of perfection.

For some years now, the Congress has failed to exercise its power of the purse with as much care as we should have. Blame should not be unfairly apportioned to one side of the aisle or the other. All have shared in our failures. Nor has Congress' imperfections proved us to be inferior to other branches of Government. This is not what the proponents contend.

What we contend is that the President is less encumbered by the political pressures affecting the spending decisions of Members of Congress whose constituencies are more narrowly defined than his. Thus, the President could take a sterner view of public expenditures which serve the interests of only a few which cannot be reasonably argued as worth the expense given our current financial difficulties. In anticipation of a veto and the attendant public attention to the vetoed line-item appropriation, Members should prove more able to resist the attractions of unnecessary spending and thus begin the overdue reform of our spending practices. It is not an indictment of Congress nor any of its Members to note that this very human institution can stand a little reform now and then.

Madam President, I urge my colleagues to support the line-item veto conference report and show the American people that, for their sake, we are prepared to relinquish a little of our own power.

I am very pleased to be here on this incredibly historic occasion.

I yield the remainder of my time.

Mr. BYRD. Will the Senator yield?

Mr. MCCAIN. I am happy to yield.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Madam President, I think of an old fable about two frogs. They both fell into a churn that was half filled with milk. One of the frogs immediately turned over, gave up the fight, and perished. The other frog kept kicking until he churned a big patty of butter. He mounted the butter, jumped out of the churn, and saved his life.

The moral of the story is: Keep on kicking and you will churn the butter.

Madam President, I say this in order to congratulate Senator MCCAIN and Senator COATS especially, for their long fight and for their success in having gained the prize after striving for these many, many years. They never gave up. They never gave up hope. They always said, "Well, we will be back next year."

So I salute them in their victory and, as for myself, I simply say, as the Apostle Paul, "I have fought a good fight, I have finished my course, I have kept the faith."

I thank all Senators.

Mr. COATS. Will the Senator yield, if I could just respond to that?

First of all, that is a high compliment and I am sure I speak for both Senator MCCAIN and myself in thanking you for that.

But, second, I leave here, after this vote, with the vivid picture in my mind that the Senator from West Virginia is still kicking in the churn on this issue, and that the final chapter probably is not written yet.

I admire his tenacity also, and I think he has gained the respect of Senator MCCAIN and I and everyone else for his diligence in presenting his case.

Mr. BYRD. I thank the Senator.

Mr. MCCAIN. I yield my time.

The PRESIDING OFFICER. The question is on agreeing to the conference report on the line-item veto.

Mr. COATS. 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 question is on agreeing to the conference report, the yeas and nays have been ordered. The clerk will call the roll.

The bill clerk called the roll.

The result was announced, yeas 69, nays 31, as follows:

[Rollcall Vote No. 56 Leg.]

YEAS—69

Abraham	D'Amato	Gregg
Ashcroft	Daschle	Harkin
Baucus	DeWine	Hatch
Bennett	Dole	Helms
Biden	Domenici	Hutchison
Bond	Dorgan	Inhofe
Bradley	Exon	Kassebaum
Breaux	Faircloth	Kempthorne
Brown	Feingold	Kennedy
Burns	Feinstein	Kerry
Campbell	Frist	Kohl
Chafee	Gorton	Kyl
Coats	Graham	Lieberman
Cochran	Gramm	Lott
Coverdell	Grams	Lugar
Craig	Grassley	Mack

McCain	Santorum	Stevens
McConnell	Shelby	Thomas
Murkowski	Simon	Thompson
Nickles	Simpson	Thurmond
Pressler	Smith	Warner
Robb	Snowe	Wellstone
Roth	Specter	Wyden

NAYS—31

Akaka	Hatfield	Moseley-Braun
Bingaman	Heflin	Moynihan
Boxer	Hollings	Murray
Bryan	Inouye	Nunn
Bumpers	Jeffords	Pell
Byrd	Johnston	Pryor
Cohen	Kerrey	Reid
Conrad	Lautenberg	Rockefeller
Dodd	Leahy	Sarbanes
Ford	Levin	
Glenn	Mikulski	

So, the conference report was agreed to.

Mr. DOLE. I move to reconsider the vote.

The PRESIDING OFFICER. Without objection, the motion to lay on the table was agreed to.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The majority leader.

CORRECTING THE ENROLLMENT OF H.R. 2854

Mr. DOLE. Pursuant to a previous unanimous consent agreement, I now call up Senate Concurrent Resolution 49, correcting the enrollment of the farm conference report.

The PRESIDING OFFICER. Under the previous order Senate Concurrent Resolution 49, a concurrent resolution to correct the enrollment of H.R. 2854 previously submitted by the Senator from Indiana is agreed to.

The concurrent resolution (Senate Concurrent Resolution 49) was agreed to as follows:

S. CON. RES. 49

Resolved by the Senate (the House of Representatives concurring), That the Clerk of the House of Representatives, in the enrollment of the bill (H.R. 2854) to modify the operation of certain agricultural programs, shall make the following corrections:

In section 215—

(1) in paragraph (1), insert "and" at the end;

(2) in paragraph (2), strike "; and" at the end and insert a period; and

(3) strike paragraph (3).

The PRESIDING OFFICER. Under the previous order, the motion to reconsider that vote is laid on the table.

The motion to lay on the table was agreed to.

AGRICULTURAL MARKET TRANSITION ACT—CONFERENCE REPORT

The PRESIDING OFFICER. The clerk will report the conference report to accompany H.R. 2854.

The assistant legislative clerk read as follows:

The committee on conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2854) a bill to modify the operation of certain agricultural programs, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of March 25, 1996.)

The PRESIDING OFFICER. Debate on the conference report is limited to 6 hours; 2 hours under the control of the Senator from Indiana, Senator LUGAR; 1 hour under the control of the Senator from Vermont, Senator LEAHY; and 3 hours under the control of the Democratic leader or his designee.

Mr. DOLE. Madam President, I hope most, if not all, of the debate will be used this evening. I know the Senator from Indiana, the chairman of the committee, is here and prepared to debate. I know there are some others who may want to be heard tomorrow. But hopefully we can conclude action on this tomorrow morning and get it over to the House so they can conclude it before they take up health care; otherwise, we are going to have a problem getting it passed before the Easter recess.

So there will be no further votes tonight. That has already been announced. I thank the chairman of the committee. I think Senator LEAHY is also going to be here for some debate. I know the distinguished Democratic leader has time reserved too.

Mr. DASCHLE addressed the Chair.

The PRESIDING OFFICER. The minority leader.

THE DEATH OF EDMUND S. MUSKIE

Mr. DASCHLE. On behalf of myself, Senator DOLE, Senator COHEN, and Senator SNOWE, I send a resolution to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will read the resolution.

The assistant legislative clerk read as follows:

A resolution (S. Res. 234) relative to the death of Edmund S. Muskie.

Whereas, the Senate fondly remembers former Secretary of State, former Governor of Maine, and former Senator from Maine, Edmund S. Muskie,

Whereas, Edmund S. Muskie spent six years in the Maine House of Representatives, becoming minority leader,

Whereas, in 1954, voters made Edmund S. Muskie the State's first Democratic Governor in 20 years,

Whereas, after a second two-year term, he went on in 1958 to become the first popularly elected Democratic Senator in Maine's history;

Whereas, Edmund S. Muskie in 1968, was chosen as Democratic Vice-Presidential nominee,

Whereas, Edmund S. Muskie left the Senate to become President Carter's Secretary of State,

Whereas, Edmund S. Muskie served with honor and distinction in each of these capacities: Now, therefore, be it

Resolved, That the Senate has heard with profound sorrow and deep regret the announcement of the death of the Honorable Edmund S. Muskie, formerly a Senator from the State of Maine.

Resolved, That the Secretary communicate these resolutions to the House of Representatives and transmit an enrolled copy thereof to the family of the deceased.

Resolved, That when the Senate adjourns today, it adjourns as a further mark of respect to the memory of the deceased Senator.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. DASCHLE. Mr. President, in the earliest days of our Nation, George Washington said it was the duty of public servants to "raise a standard to which the wise and the honest can repair."

In his more than five decades as a public servant, Senator Edmund Muskie not only raised the standard of wisdom and honesty in public office. On many occasions and in many ways, he set the standard.

Today I join my colleagues and, indeed, all of America, in saying goodbye to this extraordinary American.

Senator Muskie served two terms as Governor of Maine—something of a minor political miracle in such a rock-ribbed Republican State.

He also served with great dignity and distinction as our Nation's Secretary of State under President Carter.

But it was his service in this Chamber, and as his party's candidate for Vice President, for which Senator Muskie will be best remembered—and rightly so.

In 1974, I came to Washington as a Senate staffer. Senator Muskie had already served 15 years.

What first impressed me about him was his compassion, and his unshakable belief in the infinite possibilities of America. It was a belief he learned from his immigrant father, a belief that animated his entire life.

Ed Muskie knew that government cannot guarantee anyone the good life. But government has a responsibility to help people seize possibilities to make a good life for themselves, their families and their communities.

He held other beliefs deeply as well.

Ed Muskie believed that we have an obligation to be good stewards of this fragile planet.

He was an expert on air and water pollution, and he served as floor manager for two of the most important environmental laws ever—the Clean Air Act of 1963 and the Water Quality Act of 1965.

Ed Muskie believed that more was needed to solve the problem of poverty than money from Washington. Thirty years ago, he called for a new creative federalism.

"No matter how much the Federal partner provides," he said, "no Federal legislation, no executive order, no administrative establishment can get to the heart of most of the basic problems confronting the state governments today."

Ed Muskie believed that politics ought to be a contest of ideas, not an endless series of personal attacks.

In 1970, Ed Muskie was the presumptive front-runner for his party's 1972 Presidential nomination. In that role, he was the victim of malicious and false attacks.

Rather than counter-attack, Senator Muskie appealed for reason and decency and truth. I want to quote from a televised speech he made back then, because I think it bears repeating today.

"In these elections * * * something has gone wrong," he said.

There has been name calling and deception of almost unprecedented volume. Honorable men have been slandered. Faithful servants of the country have had their motives questioned and their patriotism doubted. . . .

The danger from this assault is not that a few more Democrats might be defeated—the country can survive that. The true danger is that the American people will have been deprived of that public debate, that opportunity for fair judgment, which is the heartbeat of the democratic process. And that is something the country cannot afford.

Senator Muskie went on to say:

There are only two kinds of politics. They are not radical or reactionary, or conservative and liberal, or even Democratic or Republicans. They are only the politics of fear, and the politics of trust.

Senator Muskie believed in the politics of trust.

And he believed in honest negotiation. Testifying before the Senate a few years ago, Senator Muskie said, "There's always a way to talk."

There is always a way to talk.

In his later years, Senator Muskie helped found an organization called the Center for National Priorities to find new ways to talk in a reasoned manner about the big problems facing our nation.

Today, we mourn Ed Muskie's death. But let us also celebrate his extraordinary life. And let us re-dedicate ourselves to the beliefs that shaped that life.

The belief that America is and must remain a land of possibilities—for all of us.

The belief that we must protect our environment.

The belief that it takes more than money alone to solve our problems. It takes hard work and personal responsibility, and people working together.

Let us rededicate ourselves to Senator Muskie's belief the politics can and should be a contest of ideas, and that we have a responsibility to talk straight to the American people.

And let us remember that we have a responsibility to talk straight to each other. There are many great and urgent issues facing this chamber.

There must be a way we can talk.

Ed Muskie is gone. But we can keep his spirit alive in this chamber. The choice is ours.

In closing, I offer my deepest condolences to Senator Muskie's widow, Jane, to their children, and to his many friends the world over.

The PRESIDING OFFICER. If there is no objection, the resolution is agreed to.

The resolution (S. Res. 234) was agreed to.

Mr. DOLE. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

Mr. DASCHLE. I yield the floor.

AGRICULTURAL MARKET TRANSITION ACT—CONFERENCE REPORT

The Senate continued with the consideration of the conference report.

The PRESIDING OFFICER (Mr. GORTON). The Senator from Indiana.

Mr. LUGAR. Mr. President, it is a privilege to bring before the Senate H.R. 2854, the Federal Agricultural Improvement and Reform Act. The farm bill that we are to pass after this debate will make the most sweeping changes in agricultural policy since the days of the New Deal. These changes begin a new era in which markets rather than Government will dominate farm decisions.

H.R. 2854 offers farmers more freedom to plant crops without Government constraint than they have had in decades. This legislation turns farm programs from an uncontrollable entitlement to a system of fixed and declining income-support payments. From now on, the Federal Government will stop trying to control how much food, feed, and fiber our Nation produces. Instead, we will trust the market for the first time in a long while to direct those signals.

Farmers during this time will not be left unprotected in a sometimes unforgiving world marketplace. H.R. 2854 provides new protection against export embargoes, ensuring that the United States will be a reliable supplier of agricultural products. The bill also strengthens our successful export credit programs, placing new emphasis on high-value exports that now constitute more than half of our overseas sales.

Back at home in this country, where resource conservation is increasingly important not only to producers but to all citizens, this bill offers new incentives to manage natural resources wisely. The Environmental Quality Incentive Program will share the cost of measures that enhance water quality and control pollution. The Conservation Reserve Program will be renewed through the year 2002, extending the many environmental benefits of that historic program.

This legislation will require more responsible use of taxpayer money. For example, until now, the Farm Services Agency has been compelled by law to make new loans to borrowers who are already delinquent. This bill will end that practice and other abuses of our lending programs.

H.R. 2854 reauthorizes food stamps and other important nutrition programs. It consolidates and streamlines rural development programs. It repeals dozens of outdated or unfunded Federal programs and requirements.

The President's spokesmen have stated that the President will sign this legislation with reluctance. I am not at all reluctant in my support. This is the best farm legislation I have seen in my congressional career.

Farmers who grow so-called program crops—wheat, feed grains, upland cotton, and rice—will be able to sign a 7-year production flexibility contract. They will receive 7 years of declining income support payments. These payments differ from the so-called deficiency payments now made under current law because the contract payments are unrelated to market price levels.

Farmers will be required to maintain their farm in agricultural use, to comply with some limitations on the planting of fruits and vegetables and to meet conservation requirements. The Federal Government will no longer tell them how many acres to plant or rigorously control their planting choices. This bill deregulates U.S. production agriculture.

As we approach the day when this bill will become law, I wish to salute the ranking Democratic member of the Agriculture Committee, Senator PATRICK LEAHY of Vermont. When he was chairman of the Agriculture Committee, I worked with him in a bipartisan way whenever I could. He has extended the same courtesy to me. H.R. 2854 is a better bill because of that partnership.

At the same time, I also want to praise the chairman of the House Agriculture Committee, Mr. PAT ROBERTS of Kansas. His tenacity led to reforms that a short time ago were clearly unthinkable.

However, those who most deserve this salute are the agriculture producers of the country that we all serve. They are the reason this Nation exceeds all others in the productivity of our agriculture system and in the abundance of our food supply. I am proud to be one of them. They deserve a Government that stands behind them without standing in their way. They want a farm bill that is designed for the new century. We have given that to them. That is what this bill represents. It heralds a future of opportunities, a future not without risk but full of challenge, and a future in which American

farmers can compete, excel, and prosper.

Mr. President, the FAIR Act is, in fact, good for farmers for these reasons. First of all, flexibility. Under the FAIR Act, the act that we are debating this evening, farmers will be able to plant the mix of crops that best suits their climate, agronomic conditions, and market opportunities. That is extremely important. That is at the heart of this bill.

The United States stands at a remarkable point in history in which we have opportunities to supply markets all over the world if we are capable of fulfilling demand. Indeed, we will be more capable under this legislation. The opportunities for farmers to make money under the FAIR Act have never been better. That is a major reason why farmers support this legislation.

Simplicity: Farmers can enter into a 7-year contract and, in many cases, will not need to visit the United States Department of Agriculture again. Much of the endless rulemaking and many of the costly regulations that accompany today's farm programs will be eliminated. Certainly, farmers will know all the program parameters and the payment rates for the next 7 years at the time of signing. That signing, Mr. President, will occur in the 45 days following signature of this legislation by the President of the United States.

Under current programs, payment rates often change after program signup, and payments in future years are unknown. A known stream of payments, guaranteed by this legislation, will provide certainty to farm lending and all manner of farm business decisions.

Let me mention the factor of opportunity. Farmers will be able to adjust planting decisions to take advantage of market opportunities as they occur. Current programs force farmers to follow old planting patterns and U.S. Department of Agriculture regulations rather than profit opportunities.

Let me mention profitability. According to the Food and Agricultural Policy Research Institute, under FAIR, the act that we are discussing tonight, gross farm income will expand by 13 percent; net farm income will expand by 27 percent over the next 10 years. This occurs while Government payments to farmers decline by 21 percent during that period of time.

Growth: Farmers will be able to adjust plantings and take advantage of growth in the high-value processed product markets. Current programs often force farmers to limit plantings and plan for stagnant low-value bulk markets in order to qualify for the payments under the current programs.

The legislation that we are talking about is a revolution of consequence, perhaps the greatest in 60 years. I say that, Mr. President, because we are now in a situation in which the market-distorting target price system is replaced by one of certainty to farmers—but also to taxpayers, also to budget writers.

Let me explain for just a moment, Mr. President, how this works. In the past, we estimated in the last farm bill—a 5-year farm bill, as opposed to the 7-year bill in front of us today—that the cost of this in terms of the outlays for the program crops of corn, wheat, cotton, and rice, would be $41 billion, or a little over $8 billion a year for those crop deficiency payments. But, in fact, Mr. President, it turned out that the bill cost $57 billion—$16 billion more. Taxpayers have asked Members of the House and Senate, "How could you have missed the mark and estimated $41 billion, and it came out $57 billion?"

Well, Mr. President, the weather intervened, and various other legislative emergencies intervened. All sorts of things intervened. They always do in agriculture, given world conditions. Mr. President, we went out confidently from the last farm bill discussion in 1990 with a $41 billion item in mind, and it turned out to be $57 billion.

In this particular case, Mr. President, we define precisely the dollars that are going to be spent for these programs at the beginning, and they decline each year for 7 years. They are known to Congressmen and the press, and they are known to farmers at the time of signup. The farmer signs a contract and knows exactly what the payments are going to be for 7 years if he or she continues to farm, makes agricultural use of that land, complies with conservation requirements, and does not plant fruits or vegetables. Those are the only stipulations. That is a large difference, as I mentioned before. Having signed up, that is the last visit the farmer may need to pay to the CFSA office, or any other USDA office. That is a big change in the life of agricultural America.

Let me simply point out that the Government will no longer tell farmers which crops to plant. I have mentioned that before, but let me highlight that again.

Since the time that my father, Marvin Lugar, who was farming in Marion County, IN, in the 1930's, was forced to destroy a portion of his corn crop and a good part of the hogs that he had on the farm, under what were supply and control dictates of the New Deal—and I will just explain that again, Mr. President. The thought then was that if you left farmers to their own devices, they would always produce too much corn, too many hogs, too much of everything and that, in essence, supply would be overwhelming and the price would go down and farmers would fail. Therefore, the philosophy of the 1930's was that you have to control these farmers, you have to dictate what they can do and how much of it is permissible.

That has been our policy for the last 60 years. I must say, Mr. President, there is still, as farmers approach this bill, a certain amount of anxiety. If you have been in that straitjacket for 60 years, even if you did not like it, and you rebelled against the Federal Government and you gave speeches about how Washington ought to stop meddling in farming and you stood up at the county Farm Bureau and said, "I want to get rid of the Federal Government altogether," still, when the moment of truth often came, people said, "Where is the safety net?" And will, in fact, people produce too much if there are no limitations?

One of the great ironies, as we approached this farm bill and debated it throughout 1995, and now into 1996, was that in 1994, we had a great, enormous corn crop in the country—10 billion bushels. Arguably, that is the first or second largest crop in the history of the country. Immediately, agricultural economists—including those of the U.S. Department of Agriculture—said we have to control this situation or the price of corn will plummet given this overhang of supply. And so they did. As a corn farmer, I experienced this on my farm, the same one I inherited from my father, Marvin Lugar, whom I cited. In my generation, in 1995, I was told I could not plant 7.5 percent of my normal corn historical acreage, to literally lay it aside—nothing there—in order to qualify for the farm program. Farmers were told that all over the country, deliberately, as Government policy. We curtailed 7.5 percent of the acreage of corn that normally would have been planted.

Well, Mr. President, USDA was dead wrong. The year 1995 brought unparalleled demand in this country. People were feeding livestock around the world with our corn. It also brought demand for our soybeans and for our wheat and, in many months, for our cotton. The whole situation in China changed remarkably. We debate these issues as if the only thing that counts is our domestic economy. But we know, as a matter of fact, that the foreign policy implications for agriculture are profound, and the most profound one in 1995 was that the Chinese no longer exported. They sent strong signals that they would be importers. The markets they were servicing became importers from us.

So, as a result, Mr. President, as we have this debate this evening, the price of corn is approaching historical all-time highs, largely because the carryover from the 1995 crop, which was a short one, as it turned out, aided and abetted by a deliberate decision of the USDA to cut corn plantings, turned up short. The price of corn is approaching $4 a bushel.

In the past, we had big arguments on the floor, whether it be that the target price of $2.75 was too high—but that is

not even in play, Mr. President. The price of corn right now is in the $3.80's, $3.90's. There are elevators all over this country—as a matter of fact, Mr. President, if you were a corn farmer, you could sell your entire crop that you do not even have in the ground yet for something well above the target price; namely, the price that is used to establish the deficiency payment, the subsidy for corn. You could sell it all. You could even reach ahead another year and sell that crop, if you were confident of the number of bushels that you could produce. That is what market signals are all about.

Mr. President, I have no doubt that during the course of this debate, Senators will come on the floor, being unacquainted with agricultural economics, and not having any corn of their own in the situation, and will talk about the "destruction of the family farm," and about a decline of income.

Mr. President, I hope that, as an antidote for those arguments, Senators will simply take a look at the price quoted in the newspaper tomorrow morning for cash corn and take a look at the futures markets on down this trail. They will notice a very substantial situation in our country for people who are farmers and who understand markets and who understand what we are about.

Mr. President, it seems to me that it is so important that we adopt this idea of looking toward markets. This hallmark of the bill really must be preserved. It is integral to the change that must occur if those of us who are farmers are to thrive in this coming economy.

Mr. President, I come before this body, as all Members know, as one who has 604 acres of land—about 250 acres, average, in corn; about 200 acres, average, in soybeans, each year. It is not a hobby farm. It is a productive farm, a profitable farm. It is a farm that has made a profit for many, many years. I come to this debate not as someone who is arguing on behalf of constituents entirely—although my constituents produce a lot of corn and beans in Indiana—but as somebody who has actually filled out the forms every year, who has had to comply with the rules of the game, who understands how farms might be more profitable, who attends every meeting of the Indiana Farm Bureau annually and, in the counties, talks to farmers to understand precisely what is at hand.

And I say, Mr. President, after 20 years in this body of debating farm legislation, this is the first time that I can go home to Indiana and say the future of agriculture is bright. We have an opportunity in terms of our upside potential for something magnificent for our generation of farming for those to whom we pass it along. I think that is critically important.

Mr. President, while we have tried to deal with this basic issue of freedom to farm we have also in both the House and the Senate attempted to deal meticulously with issues that are of importance to farmers all over this country county by county and locale by locale.

In the conference between the House and the Senate, staff identified close to 500 items in disagreement. In some cases the disagreement came because one House or the other did not even mention the item and, therefore, it was new and we had to try to resolve it. But there was common interest. In the course of 2 days, Mr. President, because of the urgency of this legislation, Members resolved all of these issues.

This is why we were able to come tonight. The hour is late and we will not complete our work until tomorrow. But I want to give hope to farmers that tomorrow will be the day in the Senate in which freedom to farm comes to pass because that will be a great day for agriculture in this country.

I appreciate this opportunity to lay before the Senate tonight the essence of this legislation.

I reserve the remainder of my time.

Mr. DASCHLE addressed the Chair.

The PRESIDING OFFICER (Mr. CRAIG). The distinguished Democratic leader.

Mr. DASCHLE. Mr. President, Senator LEAHY, the ranking member of the Senate Agriculture Committee, had to attend to a family emergency and is therefore not able to participate in the debate tonight. I know that I speak for the Senate, Mr. President, in wishing him well as he attends to his personal business, and we look forward to hearing from him on this bill tomorrow.

Mr. President, I want to take just a few moments tonight. Let me begin by making a couple of general points.

First, let me commend the distinguished chairman of the Senate Agriculture Committee for his work on this effort. He and I may not agree on the final product. We certainly may not agree on how we ought to enact farm policy in this country. But I have no disagreement with him in the manner with which he has conducted his responsibilities as chairman. He is an extraordinary leader and a Senator who has earned profound respect on both sides of the aisle. And his skill and diligence in shepherding this bill to the floor again demonstrates why he is held in such high esteem.

I would like to draw attention tonight to how late in the season this bill is being considered. I hope that regardless of the outcome we would all agree that we should never allow legislation this important to be considered so late in a Congress.

We are dealing with the 1995 farm bill in March of 1996. It is almost April. There is no excuse for that.

I do not fault the distinguished chairman of the Committee. But I certainly fault the fact that in both houses of the Congress there appears to have been little priority given among our Republican colleagues to get this legislation to the floor in time to allow us to adequately consider all of these very controversial issues or in time to provide more certainty to farmers than they have been given.

There is no excuse for this delay. This legislation should have been passed—or at least considered—at a much earlier date.

I also take issue with the title "Freedom to Farm." Farmers have had the freedom to farm—to do whatever they wish—for decades.

There is no requirement that farmers sign up for the farm bill. They are not compelled to live under the confines of whatever farm legislation we pass.

In every farm bill passed since legislation of this kind was enacted farmers have had the freedom to farm. Regardless of what happens to this legislation, they will continue to have the freedom to farm.

Permanent law guaranteed the freedom to farm. If people did not want to be required to comply with the regulations and the legislation as it was enacted, they had the right not to do so. There was no requirement.

So now those who have opposed farm programs are saying to farmers, you do not have the right to advantage yourself under farm legislation at the end of 7 years because we are going to take away your options with regard to freedom to farm or anything else. We are going to phase out the partnership the government has had with agriculture. I believe that is something that merits a great deal of debate. We ought to be discussing with a lot more care.

Regardless of whether or not this legislation passes—I assume it will—I have every expectation we will be back again next year dealing with this issue of the phaseout of farm programs.

I come to the floor tonight with the realization that there are some good things in the bill. I want to address those briefly. But first there are a number of things I find to be most difficult to accept, most problematic as I consider the advantages and disadvantages of this legislation.

Perhaps the most significant disadvantage I find in the legislation before us tonight is that it fails to provide the safety net we have always guaranteed farmers in those times when they found themselves in extraordinary circumstances, whether they be economic or natural.

Loan rates are capped. There is no opportunity for loan rates to go up. We all know what an important financial and economic tool the loan rate system has been in farm legislation for a long time. There is no opportunity now for loan rates to go up. They can go down. They will never go up.

The opportunity we provided farmers to store their own grain on their own

farms—the freedom to store their own grain, if you will—is now denied farmers. The farmer-owned reserve has been eliminated. Why that is the case I am not sure. Why we do not give farmers the freedom to farm when it comes to storing their own grain is something that I will leave to others to explain.

We have eliminated the Emergency Livestock Feed Program. South Dakota had 10 inches of snow this weekend. Everything was shut down, while livestock producers are calving all through my State. The Livestock Feed Program is an extraordinarily important tool in times of disaster. This may not qualify. But there have been times just like this when it did, and farmers availed themselves of the Emergency Livestock Feed Program. But as a result of the passage of this legislation it is no more.

There is some flexibility but not for all. Vegetable producers are treated differently. Supposedly there is a signal from the market—not the Government. But I must say there is not a freedom to farm in all cases. Potato producers are not given the freedom to farm. Other producers that are still working under many of the same constraints they have had to work under in past years, and they are going to continue to be confronted with constraints in the future. We do not have the freedom to farm in all cases for all commodities under this legislation. So let no one be misled in that regard.

The deficit increases the first 2 years under this legislation by $4 billion—$4 billion in increased costs to the Federal Treasury. In large measure the reason for that is very simple. We will be paying farmers regardless of price. We will see record prices for wheat, perhaps record prices for corn, and we may actually also see record payments from the Federal Government to the same producers.

The ultimate effect of that will be very simple—somebody is going to pay. The taxpayers could be billed more than $4 billion in the next 2 years alone as a result of that.

Research programs are shortchanged. As one who had the good fortune to chair the research subcommittee in past Congresses, I am very concerned about sending exactly the wrong message on research—to say 2 years from now we will decide it is not enough. Research programs take longer than that. The clear blueprint we must lay out through research on what we intend to do in agricultural production, especially on the applied side of research, needs to be addressed. So to say that for some reason we will deal with that later, we will deal with that in a year or two, is just unacceptable.

Nutrition programs also are treated in the same manner. Food stamps, as everyone now knows, will only be reauthorized for 2 years in a 7-year bill. We are going to pay farmers for 7 years whether or not the price is warranted, but people on food stamps will only have the certainty of getting whatever assistance we can provide in this legislation for 24 months. After that, who knows. We did not say that about farmers, but we are going to say that about recipients of food stamps. You have kids out there who are getting less consideration than producers who may not even plant a crop.

Finally, Mr. President, of all the flaws, the one that I have alluded to in a couple of my comments tonight, the fact that producers, regardless of price, regardless of need, regardless of production, will receive a payment is something that I think is just unconscionable. We should not be in the business of doing that. It will come back to haunt us. It will come back to undermine the credibility of farm programs in the long run.

Nobody ought to be misled about that. It is wrong. Call it what you will—a transition payment, a deficiency payment—it is a welfare payment. It is wrong. Farmers are not comfortable with that. I do not blame them for rolling the dice, taking this legislation, with every expectation that Congress will come back at some point with clearer heads and a much better understanding of the importance of the partnership between our Government and our agricultural industry and recognize that some continuation of farm programs is necessary.

So if I were a farmer, I would say, "Well, look, if I am going to get a good price and I am also going to get a good payment, why not take it? Why not accept it?"

If I were a farmer, as pressed as they are today, I would take it, too. I would not argue against it. But that does not make it right. Economically and financially, it is right for every farmer. If they have the chance legally to do it, they should do it. But as policymakers, it is not right for us, if we are providing huge payments to farmers at times when farm prices are as high as they are.

So, Mr. President, for all those reasons, I intend to oppose this legislation. I will vote against it tomorrow. I hope that we will come back and recognize that we can do better than this. We need to do better than this. While that may not happen in 1996, I hope it does happen early next year.

I commend the chairman and others for the balance they have shown in other areas. The fact that we continue the Conservation Reserve Program is a good aspect of this legislation, and I support it. I am pleased that people recognize the importance and the tremendous contribution to conservation the CRP now has made for many years.

I am pleased that the Fund for Rural America has been provided for in this bill, ensuring that we address the needs of rural America. One of the key opportunities for us in rural areas now is the one I hope this legislation provides in creating new value-added product development. Value-added product development is our long-term future in agriculture. Hopefully, through the Fund for Rural America, value-added processing facilities of all kinds can be considered, financed and built.

I also believe that the increased flexibility this legislation represents is something we ought to applaud. Simplification is something that I think is more uncertain, but I do believe the goal intended in this legislation to simplify our current program is something everyone supports.

Perhaps, of all things, retaining permanent law is one of the most important aspects of this legislation that I am very enthusiastic about and certainly appreciate having.

This farm bill, Mr. President, is long overdue. It did not happen in 1995. It will now happen in 1996. 1995 is wasted. It was tied to the budget—the first time this has happened since 1947. Unfortunately, it has taken too long. Unfortunately, we are now at a time when farmers need certainty more than ever. It is too late to start over. The winter wheat crop will soon be harvested. Southern crops are already in the ground. Midwestern farmers are already beginning to plan their planting for this year. They do not know what the farm programs will be until we enact them into law.

The time for action is long overdue. The President has indicated he will sign the farm bill. He is forced to sign a bad bill because of the late date. He, as I do, has deep concerns about the safety net and the decoupling this represents. He has pledged to propose new legislation next year. I believe the public will demand it in less than a year's time.

The bottom line is we have to go back and make improvements, do a better job in a constructive way of addressing the deficiencies that I have pointed out tonight. To paraphrase a famous actor in a popular movie, "We will be back."

I yield the floor.

Mr. LUGAR addressed the Chair.

The PRESIDING OFFICER. The chairman of the Senate Agriculture Committee.

Mr. LUGAR. Mr. President, I yield 10 minutes to the distinguished Senator from Washington [Mr. GORTON].

The PRESIDING OFFICER. The Senator from Washington has been yielded 10 minutes.

Mr. GORTON. Mr. President, the distinguished chairman of the Senate Agriculture Committee, the Senator from Indiana, has spent much of his time over the course of the last year as a candidate for President of the United States. He traveled about the country, speaking calmly, without invective, with common sense to the American people.

The American people in large measure did not listen to that message, thoughtful as it was. In his usual gracious fashion, the Senator from Indiana, when that became apparent, withdrew, and endorsed the candidacy of our joint good friend, the majority leader of this Senate.

I must say that in some sense the loss of the people of the United States in that candidacy directly resulted in the great gain to the people of the United States in the construction of this farm bill, the most dramatic change in agricultural policy since the 1930's, one of great thoughtfulness and great promise not only for our agricultural community but for the people of the world in providing for them more and better food prospects.

So I express my deep gratitude to the Senator from Indiana for the job he has done for the people of the world, the people of the United States, and most specifically the farmers and agricultural businesses of the State of Washington.

I cannot let this part of my remarks go without also remarking on the actions of the Acting President of the Senate, the Senator from Idaho. I believe he is the only western member of the Agriculture Committee who specifically directed his attention at the needs for various policies for the farm community of the Pacific Northwest. We share extensive wheat ranching, and his attention to the problem of those ranchers is a matter for which I am most grateful. But particularly the Senator from Idaho was an eloquent advocate of the so-called Brown amendment during the conference over the farm bill. That was an issue of great importance, not just to people in agriculture but to people in cities and towns and communities all over the West.

The President of the United States, in his State of the Union Address, repeatedly spoke about a smaller and less intrusive Government. But agency after agency in his administration in Washington, DC, has been busily attempting to aggrandize more and more control over the lives of the people of the United States and most particularly over their lives in the West, where water is such a great necessity. This aggrandizement was particularly evident as the administration's Forest Service has been attempting to require water permit holders, some with permits more than 100 years old, in many Western States literally to donate to the Forest Service a significant portion of their water rights as a condition for the issuance or reissuance of their permits.

Led by the Senator from Idaho, the conferees agreed at least to an 18-month moratorium on these Forest Service demands. They agreed to create a water task force to study Federal water policy and water rights across Federal lands, and no later than 1 year after the enactment of this bill to submit recommendations to the Congress on how best to resolve the controversy.

Obviously, I would have preferred, as the Senator from Idaho would have preferred, to see language that would have permanently prohibited the Forest Service from this practice. But at least this gives us relief for the time being and an opportunity to take an objective look at these demands and to deal with them at length in the Congress later. So I must say that Washington State agriculture thanks the Senator from Idaho for his magnificent work in that connection.

Overall, the 1996 farm bill is a wonderful step forward. As a member of the Senate Budget Committee, I am delighted it makes a contribution toward a balanced budget both, as the Senator from Indiana said, in allowing us precisely to determine how much money will be spent with respect to income support and in the promise of a significant contribution toward a balanced budget within a 7-year period.

Even more significant is the fact that this bill is a dramatic step toward a free market economy in agricultural policy. Farmers and ranchers all across our country have asked for freedom from Government regulation, for the right to farm to the market rather than to particular programs, and to be able to respond to the demands of emerging world markets. No longer will farmers be told by the Federal Government what crop to plant, when to plant it, and how much to plant. These decisions ought to belong to the farmer, and now they will belong to that farmer.

One other detail: I am delighted to see the conferees agree to authorize the Market Promotion Program, I believe now called the Market Access Program, at $90 million. This program is vitally important to all agricultural exports. It is particularly important in Washington State. In the last decade, for example, we have seen an increase in apple exports from 4.3 million cartons to 25.1 million cartons, an increase of more than 500 percent, enriching growers in the State of Washington and making a real contribution to lower our trade deficit. The Market Promotion Program has made a significant contribution to that increase.

With the implementation of the General Agreement on Tariffs and Trade and the North American Free-Trade Agreement, we will see an increased demand for agricultural exports. I believe that both will successfully open new worldwide markets for United States agriculture. As a consequence, we need to provide our farmers with the ability to develop, maintain, and expand commercial export markets, and the Market Access Program will help us do exactly that.

As does the President, I believe in a smaller and less intrusive Government. The 1996 farm bill represents that less intrusive Government, a Government with faith in its farmers, its ranchers, and its local communities to make decisions for themselves. Simply put, this farm bill puts the decisionmaking process back into the hands of the farmer and gets the Federal Government significantly out of the business of telling our farmers how to farm. I enthusiastically support its adoption and its transmission into the law of the United States.

The PRESIDING OFFICER (Mr. GRASSLEY). The Senator from Nebraska.

Mr. EXON. Mr. President, I yield myself 15 minutes off the time allotted to the minority leader.

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

Mr. EXON. Mr. President, all my life, before and during my last quarter of a century of continuous high service as either the Governor of Nebraska or the last 18 years as a Member of the U.S. Senate, having the great honor of representing the great State of Nebraska, there can be no question—and the record will show—that I have been an outspoken supporter of farm legislation, farmers, and what is good for rural America. With that background, I simply want to say about the farm bill that will pass tomorrow, without my support—it will pass, the die is cast, it is all over—but we cannot allow this to go forward without reviewing once again many of the concerns that myself and others from the Farm Belt have with regard to this legislation.

No. 1, if you remember back last year when we were having the budget debate—and I happened to be the ranking Democrat, the lead Democrat on the Budget Committee—we heard all these wonderful things about how we are going to take that farm program and we are going to help balance the budget in the year 2002 by reducing it. There were the magnificent figures bantered about as to how much we could save by the farm bill that the Republican majority was going to pass.

Obviously, I say, as a farm supporter all my life, this conference report is a sham as far as sound agricultural policy is concerned, and it is a sham as far as the taxpayers are concerned. According to the Congressional Budget Office, this conference report which we will vote on tomorrow will cost $3.2 billion more than the current law for 1996 and $1.4 billion more than current law in 1997. There is no savings, as the chief of staff of the Republican Budget Committee has said publicly.

So if anyone thinks that this measure contributes anything to balancing the budget, the opposite is true. That would not be so bad if we were taking this money and applying it as a safety net. That is what the farm programs have always been about, providing a safety net, not dishing out money to farmers for doing nothing.

This conference report is also a sham to farmers. The so-called 7-year contract with the transition payments stick out like a sore thumb. In future budget negotiations and allocations, reductions, in my view, are all but inevitable, when everyone finds out what this ill-advised bill does. Once again, let us have a thorough understanding that there were those of us who offered legitimate, reasonable proposals that gave the farmer all the flexibility that the farmer has under the so-called Freedom To Farm Act and allowed the farmers basically to plant what they want and get away from all that redtape, but that was not good enough.

This conference report, in addition to all its other shortcomings, goes right at the safety net. And the safety net, I should explain, is something that has been inherent in farm policy as long as we have had farm policy, and that is to provide a safety net for family-size farmers when the prices of the product that they raise, for whatever reason, was drastically low.

Those of us who understand agriculture, and I might say that there are people on both sides of the aisle, people who are for this program and people who are against it, who probably are very well-intentioned, but I am very fearful that this Freedom To Farm Act, or its successor, whatever you want to call it, is built around transition payments that are supposed to phase out in 7 years, the year 2002, when the budget is supposed to be balanced.

There were also those of us who have advanced policies to balance the budget in year 2002 with a workable farm program, which I think this one is not. Example: The conference report retains a cap on loan rates. Loan rates are historically what the farmer used as his safety net. He could borrow money at so much a bushel and store that commodity and sell it at a later date if the price went up. He had that option. Or if the price stayed the same or went down, he would forfeit the crop.

These levels are inadequate in this bill: $1.89 for corn and $2.58 for wheat. For all practical purposes, that is the end of the farmer-owned reserve which was always a major portion of stability and the safety net that has served us, not perfectly, but well.

The conference report is bad particularly, I suggest, for beginning farmers. Older farmers who have their land paid for will cruise toward retirement with a large amount of a hefty taxpayer-financed billions of dollars. I do not think there is any question but what we will hear more and more about these welfare payments to farmers because that simply is what it is. But this is only good for 7 years, we should understand.

This may be very good news for dad, but it sure is bad news for the son or daughter who may want to take over the farm after dad retires in the year 2002, because then, I assure you, that when this program and the cost of the program is fully explained to the people, the well will be so poisoned that we will never have the votes for a workable farm program.

All my public life, in defending and protecting farmers and rural America, I and others of us on both sides of the issue before the Senate, I might add, have fought continually to explain the need for a sound agricultural policy in America.

How sound is it? Pretty good. Most of the people do not understand that while they might think food costs are too high, the facts of the matter are, Mr. President, that the people of the United States of America have reaped the benefits of a sound farm program. We in the United States of America have the cheapest food costs of any nation in the industrialized world.

I simply say that this particular Freedom To Farm Act, with its hefty payments from taxpayers to the farmers of America, is sure not good for the farmers who want to take over after that 7-year period.

How good is it? Well, Mr. President, there has been talk on the floor tonight about, I believe one speaker said this bill is a chance for a farmer to make more money than ever before—I tend to agree with that—in many instances, maybe for doing nothing.

This particular measure authorizes an expenditure over 7 years of $47 billion. Do you know what, Mr. President, $36 billion of that $47 billion will go out for payments that another speaker in this regard said is good, because then we will know exactly how much money will be spent for price support programs. We sure do, and we know what it is going to be for 7 years—$37 billion.

That $37 billion will go out under a formula that has nothing to do with what the price of the commodity is that the farmer raises. It will have nothing whatsoever to do with the price that the farmers receive for the products of their labor in the marketplace. He or she will be making his own decisions. But I say to you, Mr. President, I do not think it is fair, I do not think it is reasonable.

The old farm program that a lot of people have criticized—and there are reasons to criticize it—the old program basically provided a safety net, and we did not pay the farmers anything if they were getting a fair and decent price for their product.

Most farmers will agree that if you are a corn farmer making $3.50 a bushel, you should not receive any money from the taxpayers or the Government of the United States of America. But most farmers would agree that if the corn would not be at $3.50 or $3.10 or $2.75, maybe down to $2, certainly somewhere in that framework, should be a trigger mechanism that would kick in as a safety net to help the farmers when they need help and not help the farmers when they do not need help.

Mr. President, as I said when I started out, the die is cast, and a week ago when some of my colleagues who were against this bill said they would request that the President veto it because it was so bad, I said I was not going to request the President to veto this farm bill. We have fought the good fight. We have had a chance at least to make the case that some of us very firmly believe in. But the facts of the matter are, we are the latest ever in passing a farm bill, and that is hurting the farmers because we are in the planting season.

So, as bad as this bill is, I do not suggest that the President veto the bill because with all of the other partisan battles that we have going on right now with regard to the budget, we could get ourselves in the position where we would have the same inefficient manner of managing the farm programs as we do in managing the overall Government of the United States, with a series of continuing resolutions, and evidently we are going to have the 11th and 12th continuing resolutions to fund this fiscal year, and this fiscal year is already halfway over. Pretty bad record. We should do things the right way.

I talked a few moments ago, Mr. President, about how I thought this program was wasteful. I cited the figures that are available with regard to what this is going to cost. The total cost of $47 billion; $36 billion of that will go directly to farmers, as another speaker said, with a chance to make more money than they ever made before.

I think it is wonderful. I support the concept of the marketplace. When the farmer can make a good living, an outstanding living, by relying on the price of the marketplace, that is fine with me. That is the way it should work. But what this particular measure overlooks is that there is no safety net, and there will not be after 7 years when the price goes down.

If I might, Mr. President—and I yield myself what additional time I might need under the time reserved for the minority leader—I would like to explain to the Senate just how bad this program is and how I think the well will be poisoned so that we can never ever again muster the votes in the House or the Senate for a workable farm program.

Under the freedom to farm bill, with its transition payments—let us talk about what those are. I would like to give you a specific or two. Under the act that was passed, let us take a 500-acre corn farm—that is not small; that is not big; that is probably somewhere near the average—a 500-acre corn farm that has a yield of 120 acres per bushel—and that is not a high or a low

yield; that would be somewhere in the middle, somewhere in the average—and the cash market price that that farmer received for growing 120 bushels on a 500-acre farm, you multiply that by a cash price in the marketplace of $3.10—and it is near $3.40 today, so this is just an approximation—you take the 500 acres at 120 bushels per acre, that is 60,000 bushels, and you measure that 60,000 bushels by the cash price of $3.10, Mr. President, and you find that that particular farmer would have a gross cash income of $186,000 for 1 year. That is not net; that is gross.

Under the transition payments that are embodied in this particular measure, that same farmer would receive an additional check, which I can only say is probably welfare, of $22,000 from the Government on top of the $186,000 of gross cash income, obviously for a gross income of well over $200,000.

There is nothing wrong, Mr. President, with the present situation of a good price in the marketplace for corn. But it is terribly wrong, in my view, when we are trying to cut down the costs of Government and when we are attacking welfare payments that have to be cut, to envision, as has been described on the floor of the U.S. Senate, that these transition payments will continue regardless of what happens.

That means, Mr. President, that even if the farmer does not plant a crop under the example that I just gave, if he did not do anything, he would receive the $22,000 payment, I guess, for owning the land.

Mr. President, I am very concerned about this bill. I will not take any further time of the Senate tonight because, as I said, the die is cast. I will vote against this bill tomorrow for the reasons that I expressed tonight. If anyone should ever be interested in the further details, I would make reference to the CONGRESSIONAL RECORD of March 12, 1996, when this Senator went into great detail and cited background material from many others who understand farm policy and why we are voting against this measure.

It is bad farm policy. It is bad Government policy. But I certainly agree, Mr. President, that it is good for the established farmer over the next 7 years. Let me put it this way: If you are a 57-year-old farmer today, with your land paid for, you are going to have not only a good income, but a handsome income for the next 7 years. If you are 57 or 58 years old, which the average farmer in the United States is today, and you accept this program, you are going to be in pretty good shape, I would suggest, for the next 7 years.

But what about the son or daughter who wants to take over the farm? This measure, I emphasize once again, in my opinion, will so poison the well that we might never be able to have the stability that is necessary, because farming is a risky and expensive business, to provide the safety net that I think is absolutely essential for the stability of our farms after the year 2002.

I do not want to be overcritical of many of my friends that I have worked with on farm policy for a long, long time. They may have—I am sure that they do have—sincere beliefs that this is a good farm program. My experience and my study of the bill indicates that that is not the fact. But I also realize and recognize that the majority in the House and the majority in the Senate do not agree with me. I think the President has no option, given the late date that we are finally getting around to passing a farm bill, that this measure, against my wishes, will become the law of the land. We will see how it works out for the next 7 years. I reserve the remainder of my time. I yield the floor.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. LUGAR. Mr. President, let me say in partial response to my distinguished friend from Nebraska, I appreciate his gracious comment, even though he is in opposition. I agree with him when he points out that farmers who are 57 years of age and older will find this farm bill to be an exceptionally generous farm bill. That includes, as the Senator from Nebraska has pointed out, a large number of farmers in this country.

As the distinguished Chair was also a farmer, I understand, this is one of the points of concern for us in farming, the maturity of that group. But we are in agreement that this bill is good news for a majority of farmers in this country who are out there and who have some age and have had some experience.

The issue the Senator from Nebraska raises is, what about their sons and daughters? What will happen to them? Here, honest Senators will disagree. My own view, having four sons, and trying very hard to make certain that the farm can be passed along to them, as my dad passed along the farm that I now farm to me, I have a lot of optimism for them.

I believe, Mr. President, that the income that will come to farmers in the next 7 years will lead to an increase in land values. I believe the Lugar farm will be worth a great deal more in 7 years. I believe there will be income throughout that 7-year period of time which will make it even stronger than it is now. That is the legacy we pass along. We do so, I think, as farmers, as Senators, as people trying to deal in good farm policy.

Let me just point out that the Senator from Nebraska is correct that the loan rate for corn at $1.89 does not change in this bill. It is capped. Mr. President, we have already discussed the fact this evening that the cash price of corn in some elevators around the country approaches $4. The Senator from Nebraska pointed out, using perhaps an average price predicted for 1996, $3.10, which is well above both the target price and the loan rate. The loan rate simply is irrelevant with the price of corn at $3.10 or $3.90. It does not come into play.

The Senator might remind me what goes up comes down, and cycles curve. I understand that, Mr. President. This is one reason why a safety net is pertinent. The distinguished Senator has pointed out the safety net is gone, but, in fact, the safety net is alive. We are arguing maybe about the size of it. The Senator from Nebraska gently reminds us the safety net is very large in the coming year, citing the 500-acre corn farm at 120 bushels an acre and $3.10 per bushel. There will be a payment to that farmer, and it does not come because of market conditions; it comes because of this bill. It comes 7 years in a row because of this bill. That is quite a safety net. It is there because we are in transition, Mr. President, from whatever we have now to the market, to the unknown, to risk. We are mitigating that risk by having a very substantial safety net.

The Senator raises the correct question: What, after the safety net, happens after 7 years? Mr. President, as a part of this farm bill, the distinguished minority leader, Senator DASCHLE, pointed out this evening one of the things he likes best about the bill we are considering is that permanent farm law is continued.

That means, Mr. President, that the Agriculture Committees of the Senate and the House must return to this subject at some point prior to the end of 7 years. The reason why maintenance of current law forces that is because that law is totally irrelevant to current conditions. It would be terrible legislation, wreaking great hardship on many farmers. Many have felt that is why you leave it there to force the Senate and the House to reconsider, again and again, the pertinent conditions and the timely conditions.

So we will do that for better or worse. We will do that. We will take a look at the conditions as they pertain before the end of 7 years are over.

Mr. President, we have had a good debate this evening, and I will not prolong it. I did want to make those comments as I have listened carefully to my colleague.

Mr. COVERDELL. Mr. President, we are finally drawing to a close on what has been an exhausting, often contentious, but extremely rewarding 18-month process of deciding the future of American agriculture. Our efforts culminate today in final passage of the 1996 farm bill, appropriately titled the Federal Agricultural Improvement and Reform Act. Mr. President, the title of this legislation is appropriate, because I truly believe we have improved our

agricultural programs, while making the reforms necessary for American farmers to compete in an increasingly global market. The most important aspect of this bill is that we have accomplished reform without jeopardizing our fragile rural economies in the process. As an active member of the Agriculture Committee, I can attest that we have been very careful to allow for economic adjustment in these communities, and have allowed our farmers the opportunity to participate in the decisionmaking process. This is Democracy at its finest.

The new farm bill is benevolent in its flexibility and in maintaining establishing a traditional safety net for producers. No longer will farmers in my home State of Georgia be required to simply plant for the program. These farmers can now evaluate the market conditions and plant the crops that will allow them to reap the greatest profit. This liberation of our hardworking farmers will, I believe, also lead to greater export potential as production levels for the higher-demand products will rise. The bill, most importantly, will protect farmers by maintaining standard marketing loan structures while providing market transition payments. This framework will promote economic stability in many of our poorest counties. In addition to these basic farm programs, we reauthorize important discretionary programs under the Trade, Nutrition, Conservation, Rural Development, Research, Promotion and Credit titles. These programs are vital to the State of Georgia. They will allow for continuing research efforts at our university system, will provide nutritious meals for Georgia schoolchildren, will keep Georgia soil on Georgia fields, will maintain active rural lending along with an array of other integral functions. In sum, this farm bill is simply good for Georgia and the Nation.

I would like to commend my colleagues on the Agriculture Committee in both the House and Senate who helped develop and guide this legislation carefully through both bodies. They have performed rural America a great service. Too often, it seems, agriculture is overlooked and criticized by the public, and some in Congress, who have limited knowledge of its importance to our national security. A strong agricultural sector is imperative to a strong America. We in the farm sector must take this message from the fields to the kitchen tables to communicate what agriculture really means to our citizens. Foremost, we must challenge ourselves to build our agricultural communities through increased trade and industry, and work with our farmers to develop ways to maximize their returns both on the farm and at the bank. This will be our ultimate test over the next 7 years of this bill.

I would especially like to thank those producer groups in Georgia who were so very helpful in our efforts to craft programs most important to my State. Producer-based reforms were the key to this legislation, and those in the peanut, cotton and dairy sectors were extremely helpful to me and my staff in these efforts. Congratulations to the University of Georgia, the Georgia Farm Bureau, the Georgia Peanut Commission, the Georgia Peanut Producers Association, the Georgia Milk Producers Association, the Georgia Cotton Council, the Georgia Cattlemen's Association, and the Georgia Pork Producers Association for their tireless efforts. While many other Georgia organizations contributed, these were the people most involved with my office in this process, and this is their victory. Each of these groups made the tough decisions necessary to achieve the bill's budgetary savings of approximately $2 billion and create more market and budget competitive programs for the future of agriculture. I have relied upon these groups' collective counsel in the crafting of the 1996 farm bill and look forward to our continued work together as we confront the many new challenges agriculture will face in the 21st century.

Mr. COCHRAN. Mr. President, this bill makes significant reforms of our Nation's longstanding agricultural policy. Farmers will no longer be forced to plant the same crops year after year to receive assistance, allowing for greater crop rotation and flexibility. Farmers will be able to make planting decisions which are in their own economic interest.

I am pleased that this farm bill retains the same operating provisions of the successful Marketing Loan Program which were contained in current law. This program has proven to be greatly beneficial for commodities such as cotton and rice. The Marketing Loan Program continues to achieve the objectives of minimizing forfeitures, the accumulation of stocks, and government costs while promoting competitive marketing in domestic and international markets. In order to maintain consistency in the operation of this program, it is the intention of the managers of this conference report that the Secretary of Agriculture extend the provisions of current regulations governing entry into the marketing loan and establishment of the repayment rate. Also, it is the intention that the Secretary of Agriculture continue to establish the prevailing world price for upland cotton in the same manner utilized for the 1991 through 1995 crops.

This farm bill preserves and enhances many of our successful environmental and conservation programs. For example, the Conservation Reserve Program is reauthorized and existing participants are eligible to reapply upon expiration of their contracts. The Wetlands Reserve Program is reauthorized with modifications to allow for non-permanent 30-year easements. I am very pleased that a program which I introduced to enhance our Nation's wildlife population was included in the conference agreement. The Wildlife Habitat Incentives Program is a new cost-share program for landowners, which will promote the implementation of essential management practices to improve wildlife habitat.

Failure to pass this farm bill conference report would cause a great deal of confusion and economic hardship for many of our Nation's farmers. This outcome will not be acceptable for farmers, consumers or taxpayers. Our farmers are ready to go to work now, but they need to know what the programs are going to be so they can make rational and thoughtful decisions. The Government's role in providing stability and an orderly transition to a market economy in agriculture is very important, and our commitment to this goal can be seen in this farm bill conference report.

This farm bill ensures our commitment to protecting and building upon our public and private investments in agriculture and rural America. Mr. President, it is time to act and I urge my colleagues to support passage of the farm bill conference report.

Mr. LUGAR. Mr. President, I point out that these Senators, Senator COVERDELL and Senator COCHRAN, are distinguished members of the Agriculture Committee and have contributed substantially to the legislation we have before the Senate.

I point out, Mr. President, that the CBO budget scoring for this farm bill for the conference agreement on H.R. 2854 comes in at a savings of $2.143 billion under the December 1995 CBO baseline. I simply state that as a matter of fact, because there has been argument as to whether there is a budget implication. I am simply pointing out there is. It is down $2.1 billion, and the baseline of December, 1995, as the Chair knows, is significant, because that came after this abundant year of good farm pricing that we have had.

Those farm prices meant a savings to the taxpayers of about $8 billion. If we had been scoring this, as the Chair knows from his service on the Budget Committee—and on this very subject, he authored legislation to try to make certain savings at least were reasonable—as I calculate it, the savings during the year through the market were about $8 billion, and $2 billion more is going to occur in this 7 years. That is substantial change in terms of the budget of the United States. I think that is important to introduce.

Mr. EXON. I yield myself off the time of the minority leader.

The PRESIDING OFFICER. The Chair recognizes the Senator from Nebraska.

Mr. EXON. Mr. President, I think the Senator from Indiana knows my high respect for him. We have worked together on many occasions over the years. I happen to think that he was one of the better qualified Republican candidates for President of the United States, and I saw the gentlemanly type of campaign that he ran. I was rather surprised that he did not catch on more than he did, but then, gentlemen do not always win.

We are at odds under the present bill. My point is, I want to drive it home once again, the Senator from Indiana indicated that the Agriculture Committee will monitor and look at this program as we go down the road. My point is—and I might be wrong, and I hope I am—but the farm program that is initiated with this freedom-to-farm act and the transition payments that go therewith, will so poison the well that even if the Agriculture Committee of the House and Senate think changes should be made, the public mood at that time will be to say, "What are you telling us? You have been giving this money away, chunks of billions of dollars, whether corn is $3 a bushel or $4 a bushel, and now you want to change it."

The main difference of opinion on this whole matter between the Senator from Indiana, my friend, and myself is that I do not think the concept that he is outlining, while it sounds like a better scenario to me than what this bill is intending to do, I am simply afraid there will not be the votes in the Senate or the House to make changes that the Senator from Indiana has at least indicated might be made and might be recommended at some further date. That is the crux, I think, of the difference between the point of view being expressed by the Senator from Indiana and the Senator from Nebraska.

I yield the floor.

Mr. LUGAR. Mr. President, I ask for the amount of time that remains under the control of the three Senators.

The PRESIDING OFFICER. The Senator from Indiana controls 84 minutes; the Democratic leader controls 138 minutes; and Senator LEAHY from Vermont controls 60 minutes.

MORNING BUSINESS

Mr. LUGAR. I ask that there now be a period for the transaction of routine morning business with Senators permitted to speak for up to 5 minutes each.

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

HOW MUCH FOREIGN OIL IS CONSUMED BY UNITED STATES? HERE'S WEEKLY BOX SCORE

Mr. HELMS. Mr. President, the American Petroleum Institute reports that, for the week ending March 22, the U.S. imported 6,594,000 barrels of oil each day, 347,000 barrels more than the 6,247,000 barrels imported during the same period a year ago.

Americans now rely on foreign oil for more than 50 percent of their needs, and there is no sign that this upward trend will abate. Before the Persian Gulf war, the United States obtained about 45 percent of its oil supply from foreign countries. During the Arab oil embargo in the 1970's, foreign oil accounted for only 35 percent of America's oil supply.

Anybody else interested in restoring domestic production of oil—by U.S. producers using American workers? Politicians had better ponder the economic calamity that will occur in America if and when foreign producers shut off our supply, or double the already enormous cost of imported oil flowing into the U.S.—now 6,594,000 barrels a day.

THE BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, March 26, 1996, the Federal debt stood at $5,066,587,916,694.66.

On a per capita basis, every man, woman, and child in America owes $19,154.54 as his or her share of that debt.

PROPANE EDUCATION AND RESEARCH ACT

Mr. FAIRCLOTH. Mr. President, I rise today to speak on behalf of the Propane Education and Research Act.

Mr. President, North Carolina depends heavily on the use of propane as an energy source. As a matter of fact, our State ranks as the sixth largest consumer of propane fuel in the country—consuming over 500 million gallons in 1994 alone.

Propane is a low-cost energy source. For this reason, residential and farm use is abundant throughout our State.

The propane industry has recognized that consumption is on a steady rise. To respond to the increased demand on the industry, producers and marketers have recognized a real need to launch a research and development program of their own. They know that a strong research and development program would increase the safety of propane, create greater efficiency in its use, and assist them in exploring the endless opportunities of new usages.

But to truly understand propane, you must take a hard look at the makeup of the industry. The industry is only 165 producers strong with about 5,000 retail marketers. The resources necessary to implement a strong research and development program for this industry are limited.

That's where the Propane Education and Efficiency Act comes into focus. PERA provides the propane industry an opportunity to establish a checkoff program that would collect one-tenth of one cent per gallon of the wholesale cost of propane. The proceeds would go toward a fund designed for research and development, education and safety.

Propane is the only energy source that is not supported by Federal research dollars. This industry-financed program gives an industry with limited resources the opportunity to enhance their product without coming to the Federal trough for help.

I commend the leadership of propane industry in North Carolina and the Nation as a whole for recognizing their needs and taking the initiative to find a solution that will work without an increased burden on taxpayers.

As an original cosponsor of this bill, I thank Senator DOMENICI for his willingness to introduce this important piece of legislation. I stand ready to assist my good friend from Arizona in any way to see that this bill moves forward.

I thank the Chair.

JOHN KLUGE

Mr. WARNER. Mr. President, as chairman of the Senate Committee on Rules and Administration, and as a proud Virginian, it is my pleasure to commend a fellow Virginian, Mr. John Kluge of Charlottsville, VA, for his contribution to the Library of Congress.

Born in Chemnitz, Germany, Mr. Kluge came to America when he was 8 years old and has become one of the Nation's most successful and highly regarded businessmen and one of its most generous humanitarians.

In 1990, John Kluge became the first chairman of the James Madison Council of the Library of Congress. The Madison Council, the Library's first private-sector support group in its 190-year history, plays a vital role in raising the visibility of the Library and promoting awareness and use of its collections. Its members include leaders in business, society, and philanthropy from across the Nation who are known for their commitment to education and scholarship. In its short history the Madison Council has funded over 50 programs, including fellowships for young scholars, publications and television programs, public exhibitions, scholarly conferences, centers of excellence that draw top thinkers to the Library to use and enhance its collections, a special acquisitions fund, and much more. Just recently, the council reached its goal of 100 founding members, set by John Kluge 6 years ago.

John Kluge has been the foremost private donor in the Library's history, personally giving nearly $8 million to the Library. His biggest single contribution was $5 million for the National Digital Library, which is the brainchild of the Librarian of Congress,

James Billington. Launched in 1994 with commitments of support from the Congress and private donors like Mr. Kluge, the National Digital Library is providing free unique content for the information superhighway opening new gateways to education for all Americans. Other projects to which John Kluge has contributed generously include the magnificent Vatican Library exhibition, the Leadership Development Program, an exhibition of heretofore unseen documents from the Soviet state archives, and purchase of a major collection of sound recordings.

By personally working on behalf of the Library of Congress, arranging meetings with potential supporters, giving of his own personal time, and bringing together an outstanding group of distinguished individuals who truly care about their national library and support it with their time, ideas, and financial contributions, John Kluge has made the Madison Council what it is today—a model of how the private sector can focus its resources within a public institution and make an important difference.

Because of John Kluge, millions more Americans know about our Nation's great Library which Congress has built and supported for almost 200 years, and they understand its importance in the history of our Nation.

John Kluge is one of the great philanthropists in America today. His contributions to the Library of Congress and the Nation have been immense. It is my privilege to commend him for his achievements.

MINIMUM WAGE

Mr. SARBANES. Mr. President, I rise today to express my strong disappointment that the Republican leadership will not allow a straight up-or-down vote on legislation to increase the Federal minimum wage. The Congress is long overdue in acting upon legislation which would establish a more realistic wage standard for the American worker and I would hope that the Senate has the opportunity to express its will on this matter—one so critical to working families—in the near future.

It would seem to me that the issue is a relatively simple one. As many of my colleagues will recall, under the Bush administration, the Senate voted overwhelming to enact an increase similar to the one being proposed today. In 1989, by a vote of 89–8, the Senate approved legislation which raised the minimum wage by 45 cents in 1990 and again in 1991 to bring it to its current level of $4.25 per hour. The proposal being put forth by myself and others would enact the same increase—45 cents this year and another 45 cents in 1997—raising the minimum wage to $5.15. It is my strongly held view that such an action, like that taken in the 101st Congress, would appropriately reflect the values and beliefs at the very core of our society—the idea that if you work hard and play by the rules, you deserve the opportunity to get ahead.

In my own State of Maryland, the city of Baltimore has been at the forefront of efforts to assure hard-working Marylanders receive a decent living wage. Just last year, Baltimore's Mayor Kurt Schmoke signed the Nation's first prevailing wage law which stipulates that all new or renegotiated contracts with the city of Baltimore must provide a minimum wage of at least $6.10 per hour. Baltimore's ground-breaking public policy initiative should serve as an example to cities across the Nation and, in my view, provides an ideal model for the U.S. Congress.

As we all well know, the real value of the minimum wage has deteriorated markedly since 1979. At its current level of $4.25 per hour, the minimum wage will fall to its lowest real value in 40 years if Congress fails to take action. In the late 1950's the real value of the minimum wage was worth more than $5 per hour by today's standards and in the mid-1960's it peaked at $6.28. However, Congress' failure to respond to inflation over the past 20 years has resulted in a 27-percent decline in the real value of the minimum wage since 1979 and a 50-cent drop since 1991. Since April 1991, the cost of living has risen 11 percent while the minimum wage has remained constant at $4.25.

The decrease in the value of the minimum wage has served to widen the gulf between the wealthiest and the poorest of our society. In an effort to offset this decline, I strongly supported President Clinton's expansion of the Earned Income Tax Credit [EITC] which raised the income of 15 million households—helping many rise above the poverty line. However, this is not enough. Even with the EITC expansion, a family of three with one full-time wage earner working year round at the current minimum wage brings home $8,500 and could receive a tax credit of $3,400 for a total annual income of $11,900. According to the Congressional Budget Office [CBO], the poverty level for a family of three in the United States stands at approximately $12,557. Therefore, at the current minimum wage, workers can work full-time for an entire year, qualify for the EITC and still fall some $657 below the poverty line. While the EITC is a critically important public policy initiative to assist low-income families, it should not be viewed as a substitute for a consistent, decent wage.

Opponents of increasing the minimum wage frequently argue that the typical minimum wage earner is a teenager simply working after school or on the weekends to earn a little extra spending money and that the Government should not be supplementing the incomes of this group of temporary, part-time workers. The truth, however, is that more than 70 percent of all minimum wage earners are adults over 19 years of age and the vast majority—58 percent—are women. Clearly, these are hard-working individuals trying to make a living and support a family on a wage that fails to allow them to even meet the poverty standard, let alone surpass it.

At a time when salaries of CEO's of major companies have increased by more than 20 percent and the congressional leadership is talking about giving tax breaks to some of the most well-off in our Nation, I find it completely unreasonable that an attempt to increase this basic standard for the working poor would be resisted.

Some argue that the economy cannot afford an increase in the minimum wage; that an increase in the minimum wage would ultimately rob the economy of jobs and income as businesses would be forced to pay fewer workers more. This is simply not true. A close review of recent evidence clearly demonstrates that a reasonable increase in the minimum wage does not result in huge job losses. A frequently cited 1992 study in which Princeton economists David Card and Alan Krueger examined the effects of a minimum wage increase in New Jersey found "no evidence" that a rise in New Jersey's minimum wage reduced employment opportunity. In fact, just the opposite was true. In comparing employment trends in New Jersey with those in Pennsylvania, Card and Krueger found the employment trends to be stronger in New Jersey, the State with the higher minimum wage. Similarly, Harvard economist Richard Freeman found in his 1994 study that "moderate legislated increases did not reduce employment and were, if anything, associated with higher employment in some locales."

Mr. President, it is clear that the American economy cannot only afford a reasonable rise in the minimum wage, but could actually benefit from such an increase. In fact, it stands to reason that more money in the pocket of the American worker means that more money is being spent and purchasing power is increased. The minimum wage proposal now before us would give the American worker an additional $1,872 in annual income. In Maryland alone, it would mean an increase in income for more than 131,000 workers. It may not sound like much to some in this Chamber, but it can make all the difference to a family struggling to heat their home, pay for groceries, or provide adequate health care for their children.

While economic considerations are an important aspect of this debate, neglecting to recognize the fundamental value of ensuring a living wage for American workers would compromise principles I believe to be integral to

the fabric of our society. Historically, Congress has acted to guarantee minimum standards of decency for working Americans. Measures to protect workers from unsafe and unfair working conditions were enacted under the belief that, as a society, we should support a basic standard of living for all Americans. It is in this spirit that minimum wage laws have been updated through the years.

As long as we in Congress fail to act, we send the message to working families across the country that hard work and sound living are not enough. Nearly two-thirds of minimum wage earners are adults who are struggling to achieve a decent standard of living for themselves and their families. The objective of the minimum wage is to make work pay well enough to keep families out of poverty and off Government assistance. An hourly rate of $4.25 is not enough to cover the average living expenses of a family of three. It is unthinkable that in what is arguably the wealthiest Nation in the world, there are families out there right now having to choose between food for their children and heat for their homes. If a family of three can barely get by on $4.25 an hour, how can a single mother—trying to stay off welfare—be expected to be able to provide food, clothing, shelter, medical care and child care on the current minimum wage? Instead of maintaining barriers to self-sufficiency, we should be helping to tear them down.

Mr. President, Americans want to work. They want to be able to adequately provide for themselves and their families. But they are working harder for less and are becoming increasingly frustrated in the process. It is critical that we recognize the reality of minimum wage earners and take steps to help them rise above poverty. President Roosevelt once called for "a fair day's pay for a fair day's work." The American worker deserves no less. Many of those who supported the minimum wage increase in 1989 are here today and I would urge them to join me in calling for vote on this important measure.

UNITED STATES/FRANCE AVIATION RELATIONS

Mr. PRESSLER. Mr. President, I rise today to discuss the important issue of United States aviation relations with the Government of France. Although the immediate crisis concerning the upcoming schedule for the summer season apparently has been resolved, I remain very concerned about the state of U.S./French aviation relations.

As a result of France's decision in 1992 to renounce the bilateral aviation agreement that existed between our two countries, France currently is our only major aviation trading partner with whom we do not have an air service agreement. In the absence of such an agreement, U.S. and French carriers continue to fly between our two countries, but they do so solely at the pleasure of each government and without the necessary flexibility to increase or change service when market demand warrants. Essentially, U.S./French air service is frozen as if the clock stopped in 1992.

In a speech before the International Aviation Club of Washington last month, I spoke at some length about the fires of air service liberalization burning brightly on the European continent. In hailing the enormously important U.S./German open skies agreement signed several weeks ago, I noted that nearly 40 percent of U.S. travel to Europe will now go to or connect through open skies markets. I ask unanimous consent that the text of the speech to which I referred be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. PRESSLER. Although this wave of air service liberalization touches France on three of its borders, France stands seemingly oblivious to the competitive air service forces besieging it. The fact of the matter is while its European neighbors are reaching out to embrace the future of global aviation with the enlightened view that the economic benefits of an open skies relationship with the United States are a two-way street, France continues to cling to the past. This choice is not without significant adverse consequences for France's economy.

So what precisely is France's air service policy with respect to the United States? It appears that policy can be best described as "managed stagnation." In an attempt to rebalance the market share of state-owned Air France vis-a-vis the highly competitive U.S. carriers, France has made the unfortunate decision to forego the tremendous air service growth other European countries are experiencing in their air service relationships with the United States. Ironically, some of the lucrative new air service opportunities European countries now enjoy are the direct result of traffic that France's restrictive air service policy has driven away to other countries.

According to a recent statement by Anne-Marie Idrac, the French State Secretary for Transport, France "is not any worse off" for its decision to renounce the U.S./French air service agreement. Economic analysis, however, paints a far different—and quite sobering—picture. In fact, this analysis shows France's policy of managed stagnation is a recipe with a very bad aftertaste for the French economy. Let me explain.

First, the adverse economic consequences of France's air service policy is best illustrated by a comparison with the recent experiences of the Netherlands. In 1991, both the U.S./French and U.S./Dutch air service markets experienced tremendous growth. Scheduled passenger traffic grew 21 percent and 14 percent respectively. In 1992, however, aviation relations with France and the Netherlands turned abruptly in opposite directions. Around the same time France renounced the U.S./French bilateral aviation agreement, the Netherlands opted to enter into an open skies agreement with the United States.

What has resulted from these decisions? The U.S./Netherlands passenger market has grown at a rate over 10 times faster than the U.S./French market. Between 1992 and 1994, scheduled passenger service between the United States and the Netherlands grew 38 percent. In stark contrast, France's decision to renounce the U.S. air service agreement caused passenger growth in the U.S./French market to abruptly halt. Scheduled passenger traffic in the U.S./French market grew a measly 3 percent during that period, compared to 21 percent in 1991 the year immediately prior to renunciation.

The net effect of these vastly different policies also is illustrated dramatically by the aggregate size of both country's passenger market with the United States. In 1991, the U.S./French passenger market was 100 percent larger than the U.S./Dutch market. By 1994, it was just 60 percent larger. What a difference two air service policies with the United States can make!

Importantly, this trend of France foregoing tremendous air service opportunities is reflected elsewhere in Europe as well. For instance, between 1992 and 1994 scheduled passenger traffic between the United States and Switzerland grew 30 percent—ten times faster than it did in the French market. Amazingly, this tremendous growth does not reflect the U.S./Switzerland open skies accord signed last year. As was the case in the Netherlands, the U.S./Switzerland open skies agreement will likely cause that rate of growth to accelerate. The more mature U.S./British air service market also experienced strong growth—10 percent—during this same period.

Unquestionably, France has succeeded at stagnating the U.S./French passenger service market at a time when new transatlantic air service opportunities for European countries with the United States abound.

Second, at a time when revenue from connecting passenger traffic is increasingly important, France's air service policy is drying up U.S. connecting traffic at Paris' two key international gateway airports, Paris-Charles de Gaulle and Orly. Between 1992 and 1994, connecting traffic carried on U.S. airlines fell 55 percent at the Paris airports. Let me repeat this astonishing

fact. Connecting traffic carried on U.S. airlines fell 55 percent at the Paris airports between 1992 and 1994.

Where did this connecting traffic go? One need look no further than competing airports on the European continent. During the same period, U.S. airline connecting traffic grew 24 percent at Frankfurt and an astounding 329 percent at Amsterdam's Schipol Airport! The recent U.S./German open skies agreement, as well as open skies agreements the United States signed last year with neighboring countries including Belgium and Switzerland, will surely cause the rate of ongoing connecting passenger traffic diversion away from Paris airports to accelerate. In particular, I fully expect German airports will press France hard in this competition for connecting passenger traffic.

Third, Air France, the intended beneficiary of France's decision to renounce the U.S./French air service agreement, has on-balance suffered as a result of France's policy of managed stagnation.

It is true that state-owned Air France has increased its share of the U.S./French market from 29 percent in 1992 to 37 percent in late 1995. However, this rebalancing of market share, which in large part resulted from U.S. carriers routing connecting passengers to international gateway airports in other continental European countries, has come at an inordinately high price.

As a direct result of France's decision to tear up its air service agreement with the United States, Air France is isolated as the only major European carrier that does not have an alliance with a U.S. carrier. Quite correctly in my view, our Department of Transportation has indicated it will not approve any code-sharing alliance between Air France and a U.S. carrier until France agrees to enter into a sufficiently liberal air service agreement with the United States.

What is the practical consequence for Air France? Every major European carrier has access to feed traffic from the very lucrative U.S. domestic market except Air France. To make matters worse for Air France, if the United Airlines and Delta Air Lines alliances with European carriers are granted antitrust immunity, in combination with the Northwest/KLM alliance, nearly 50 percent of passenger traffic between the United States and Europe will be carried on fully integrated alliances. Without a doubt, France's air service policy with the United States has placed Air France at a severe competitive disadvantage in the transatlantic and connecting service markets.

A recent paper by the Commission of the European Communities on U.S./E.C. aviation relations made this point well. According to the E.C., "the commercial advantages of strategic alliances are such that it will be difficult for a major European carrier with the ambition to become (or remain) a global player, not to enter into an alliance with a U.S. partner." The E.C. is absolutely correct. France's decision to continue to forgo an air service agreement with the United States is threatening Air France's long-term future as a global player.

Mr. President, France's aviation policy with the United States is not only inconsistent with the trend of air service liberalization sweeping Europe, it also is badly out of step with France's own domestic air service policy. Earlier this year, France opened its skies to domestic competition thereby ending the virtual monopoly of Air Inter, the domestic wing of Air France. This forward looking domestic policy came about because France realized it needed to better position Air Inter to compete next year in the deregulated intra-European air service market.

Unfortunately, France has failed to apply this same vision to its air service policy with the United States. In marked contrast, France continues to cling to the past and it uses government restrictions to protect Air France from competition in the increasingly liberalized transatlantic market.

The huge economic costs the French economy is bearing as a direct result of France's misguided air service policy with the United States reminds me of an editorial I read earlier this year shortly after Thailand abandoned its economically disastrous experiment with renunciation of its air service agreement with the United States. That January 26, 1996, editorial from the Bangkok Post astutely called Thailand's decision to renew formal aviation relations with the United States "a victory for common sense."

Let me add Thailand's decision was also a victory for forward looking economic policy. In condemning the economic folly of Thailand's failed experiment, the Bangkok Post added "every airline that comes here or increases its frequency is investing more in the country, providing more jobs, bringing more tourists. Restricting those operations necessarily has the reverse effect." I ask unanimous consent that the text of the editorial from the Bangkok Post to which I have referred be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 2.)

Mr. PRESSLER. Mr. President, let me conclude by saying I hope France will recognize its air service policy with the United States is an economic failure that is exacting a very high cost in terms of lost jobs and other commercial opportunities. To remedy this situation, I hope France will renew its formal aviation relations with the United States by agreeing to a liberal air service agreement. As the Commission of the European Communities recent study on EC/U.S. aviation relations recently warned, countries such as France with a restrictive air service policy place themselves at great economic risk as the wave of air service liberalization continues to sweep across Europe.

EXHIBIT 1

REMARKS OF SENATOR LARRY PRESSLER, BEFORE THE INTERNATIONAL AVIATION CLUB OF WASHINGTON, DC, FEBRUARY 14, 1996

Bruce, thank you for your kind introduction. I am pleased to join the long list of outstanding speakers who have been privileged to share their views on international aviation policy with this distinguished group.

Let me also thank the distinguished individuals who graciously accepted invitations to join me at the head table today. My friend Ambassador Chrobog and I met through our mutual love of opera. We also share a belief that the economic benefits of liberalized trade between nations is a two-way street. Mr. Ambassador, I am pleased that our two nations are on the brink of signing an open skies agreement of truly historic magnitude. Such an agreement will be momentous for both nations and will be a catalyst for fully liberalizing the enormous U.S./E.U. air service market. In pursuing this initiative, I believe Germany is providing outstanding leadership for all of its European Union partners.

Carol and Charlie, I am also pleased you are able to be here today. Carol and I share a common challenge. We each are trying to make U.S. air carriers realize that good things can happen to them when they work together as an industry. Robust competition and long-term economic vision need not be mutually exclusive. In fact, I would argue they can, and indeed should, go hand-in-hand. Charlie, as you will unfortunately experience firsthand, much work remains to be done in this regard.

For Valentines Day I had considered making sugar-coated remarks extolling the numerous benefits of a U.S./German open skies agreement. I decided, however, to save that speech for another day. The bitter sweet reality of U.S. international aviation policy is that every step taken—even major leaps forward such as a possible U.S./Germany open skies agreement—is met by parochial infighting among our carriers. Regrettably, I fully expect efforts to finalize the U.S./German open skies agreement will not escape this plague.

Let me say that I firmly believe pernicious infighting among our carriers is the single greatest barrier to the United States' efforts to open and expand global air service markets for U.S. carriers. It is a sad story which is played out time and time again.

As leaders in the aviation community, I come to you today with a challenge. I challenge you to broaden your vision of the significance of new international air service opportunities for our carriers. To me, these opportunities conjure up images of tremendous trade benefits which buoy the U.S. economy. I see significant economic benefits derived by our airline industry and aircraft manufacturers. I think of consumers benefiting by enhanced choice and competitive prices. I also see new jobs for American workers and new commercial opportunities for our States and communities.

I urge you to have the vision to look beyond which carrier has positioned itself to benefit most from new international air service opportunities. Simply put, I challenge you to make your focus the American

flag on the tail of airplanes providing new service opportunities, not the name on the side of the plane.

With that challenge in mind, let me now turn to my specific remarks. Today I want to focus on exciting developments and old challenges in Europe. Of course, I speak of Germany and the United Kingdom respectively. However, since your last three speakers discussed U.S./Japan aviation relations—a subject in which I have a very keen interest—I cannot resist making a few points.

First, I am deeply troubled the Government of Japan continues to refuse to respect the beyond rights of our so-called 1952 carriers. Those rights are guaranteed by the U.S./Japan air service agreement. International agreements between countries are sacred trusts and nothing short of full compliance is acceptable.

Second, I am also very concerned about the Kyoto Forum which the Japanese organized recently. By excluding the United States and other Western country members of APEC, I believe the Government of Japan acted contrary to the spirit and intent of the Bogor Declaration.

Third, the Government of Japan's appeal for the United States to "equalize" aviation opportunities between our countries is misdirected. Market forces, not the U.S./Japan air service agreement, has tilted transpacific market share advantage in favor of U.S. carriers.

As I have said in the Senate numerous times, the disparity in transpacific market share is due to the fact that Japanese carriers—which labor under heavy government regulation—cannot compete with our more efficient carriers whose operating costs are substantially lower than their Japanese counterparts. If equality of transpacific market share is what the Government of Japan seeks, it should look no further than to itself to take steps which will enable Japanese carriers to compete more effectively with U.S. carriers. It is critical we not forget that just 10 years ago, under the very same bilateral agreement that the Government of Japan now criticizes, Japanese carriers had a larger market share on transpacific routes than U.S. competitors.

Fourth, complaints by the Government of Japan regarding the limited Fifth Freedom opportunities of our carriers must be put in proper context by considering the enormous offsetting Sixth Freedom opportunities Japanese carriers are exploiting between the Asia-Pacific market and the United States. Viewed from this perspective, Japan's criticism is without merit. In fact, I regard it as somewhat remarkable when one considers it comes from a major trading partner with whom the United States has a trade deficit of more than $65 billion!

Finally, in a floor speech on October 27th, I called on our so-called MOU carriers to come forward with economic analysis supporting their position that the cornerstone of our negotiating strategy with Japan should be to trade away the beyond rights of our 1952 carriers. Having seen no such study, today I renew my call for the MOU carriers to make their case with numbers, not rhetoric. I find it a bit odd that MOU carriers who criticize DOT for not doing adequate prenegotiation economic analysis are now pushing DOT to rush into passenger talks, even though these carriers have yet to provide economic analysis which supports their position.

Turning to Europe, let me first say that if the identity of the author of Primary Colors is the best kept secret in Washington, my support for an open skies agreement with Germany is one of the worst. I am delighted Secretary Peña and German Transport Minister Wissmann have agreed on the framework for an open skies agreement between our countries. I am also pleased a formal round of talks will be held in Washington next week to iron out textual details. I enthusiastically support swift completion of a formal U.S./German open skies agreement.

How is it that a U.S./German open skies agreement is within reach? Secretary Peña had the vision to recognize that competition is always the best ally to open restrictive markets. He built on the vision that President Bush and the Dutch government both showed when the United States and the Netherlands signed an open skies agreement in 1992. At that time, it was a very bold move, one for which Jeff Shane, who is here today, should be commended.

Jeff created a model on the European continent by which all neighboring countries could see firsthand the tremendous economic benefits that are produced by a liberalized aviation relationship with the United States. Last year, Secretary Peña built on that foundation with the nine European country open skies initiative. Then, he reached out to our excellent friend and great trading partner, Germany.

The timing could not have been better. Minister Wissmann—himself a man of great vision—recognized the time was right to secure for the German economy and German consumers the great benefits that unquestionably would result from an open skies agreement with the United States. As I said earlier, in pursuing this initiative, Germany has provided outstanding leadership for its partners in the European Union.

Before I discuss why I believe this tide of liberalization will reach the shores of the United Kingdom, let me address an issue that has come to my attention recently regarding the framework of the U.S./German open skies agreement.

I understand a question has been raised about the timing of when the U.S./German open skies agreement would take full force relative to a final decision on an application for antitrust immunity which is expected to be filed by the United Airlines/Lufthansa alliance. I do not consider this to be a problem. I have total confidence in Secretary Peña's ability to fully and fairly discharge his statutory duty in considering that application when it is filed, regardless of when the agreement goes into effect. I feel compelled to add I am somewhat mystified that some of our carriers continue to sell Secretary Peña so short, at the same time they reap the benefits from his excellent leadership in international aviation policy.

Last week in London, Malcolm Rifkind, the U.K. Secretary of State for Foreign and Commonwealth Affairs, gave a very important speech in which he advocated nothing less than transatlantic free trade. He called for "political will and vision" to bring this goal about. Pledging that "Britain will be a champion of greater economic liberalization across the Atlantic," Minister Rifkind noted the United Kingdom has been leading the way and said Britain would continue to do so.

The United Kingdom deserves great credit as a shining beacon for liberalizing trade in the U.S./E.U. market generally. However, its policy in the area of transatlantic air services is far out of step with the principles of free trade.

Let me share two truly remarkable facts which dramatically make my point. Last year, British Airways had a larger share of the U.S./U.K. passenger market than all U.S. carriers combined! Also, data shows that in terms of U.S./U.K. market share, two of the top three carriers are British airlines! Without question, market forces are not controlling the distribution of air service opportunities between the United States and Britain.

How will competitive forces unleashed by a U.S./German open skies agreement pressure Britain to reassess its outdated aviation policy which tarnishes an otherwise very impressive record on liberalizing transatlantic trade? The answer lies at two levels: heightened competition by continental European airports for connecting passenger traffic and enhanced competition by U.S. carrier alliances against British airlines.

London always will be a popular destination for passengers originating in the United States. That is not to say, however, that in this era of global networks, connecting passengers will continue to feel a compelling need to use Heathrow rather than airports such as Amsterdam's Schipol, Frankfurt or the new one planned at Berlin-Brandenburg. Connecting passengers look for convenient schedules and competitive fares. Due to the lack of European gateway opportunities, Heathrow once was the connecting airport of necessity, not choice, for passengers originating in the United States. Times have changed.

Liberalization of air service markets on the European continent have created new connecting service options. Evidence already clearly shows connecting traffic is being diverted away from London. Statistics dramatically illustrate this point. Between 1992 and 1994, connecting traffic carried on U.S. airlines grew just 3 percent at Heathrow. During the same period, U.S. connecting traffic grew 24 percent at Frankfurt and an astounding 329 percent at Schipol! An open skies agreement with Germany will greatly accelerate the rate of this connecting passenger diversion.

These statistics are very interesting but should they matter to a British policymaker? Absolutely. This trend should raise serious concerns considering that last year alone connecting traffic accounted for more than 1 billion pounds of export earnings for the United Kingdom.

A U.S./German open skies agreement will also make U.S. alliances with European carriers even more formidable competitors in the U.S./Europe air service market. This will not be a welcome development for British carriers. If the United and Delta alliances are granted antitrust immunity, in combination with the Northwest alliance, nearly 50 percent of passenger traffic between the United States and Europe will be carried on fully integrated alliances.

Will this pose a competitive challenge for British carriers? Investors in British Airways sure thought so. According to a Financial Times article last week, despite a quarterly pre-tax profit of 30 percent, British Airways shares fell on the news of the "preliminary 'open skies' deal struck between Germany and the U.S." British Airways' public attack on antitrust immunity last month at an ABA conference also is very telling on this point. Privately, British Airways has made no secret they very much covet antitrust immunity for their alliance with USAir.

So where do we go from here? I think U.S./U.K. negotiations should resume, but not on the terms of the October offer which was highly conditioned and essentially allowed the British to pick which U.S. carriers competed against British carriers in what markets. Instead, I encourage the British to

come to the table with a "bigger, bolder and braver" approach like Sir Colin Marshall, Chairman of British Airways, called for last November.

First, to help clear the way for more ambitious negotiations, I am announcing today that I plan to introduce legislation to increase to 49 percent the level of permissible foreign investment in U.S. airlines. I am already working with the Administration to determine a formulation to maximize the benefits of this tool. One thing is certain, the limited, highly conditioned October offer would not trigger the benefits of the bill I intend to introduce.

Second, I am also calling today for U.S. carriers to stop being "pennywise and pound foolish" with respect to Fly America traffic. As a taxpayer, I want the U.S. government to pay the most competitive price for government travel. As a policymaker, I find nothing in the legislative history of the Fly America statute even suggesting Congress intended to guarantee U.S. carriers a monopoly profit for government travel. I see no good reason the opportunity for British carriers to competitively bid through their U.S. carrier partners for Fly America traffic should not be on the table if British negotiators pursue a "bigger, bolder and braver" approach.

Third, as far as Heathrow access is concerned, I call on the British to muster up the "political will and vision" Minister Rifkind spoke of to change the runway operations at Heathrow. On this side of the Atlantic, we are constantly told by the British Ministry of Transport that additional Heathrow access is impossible because there are no additional take-off and landing slots. What the British fail to tell us is a number of U.K. airport capacity studies, including one issued as recently as August 1994, have concluded the British could potentially create an additional 100 daily takeoff slots and an additional 100 daily departure slots at Heathrow if they switched its runways to more efficient mixed-mode operations.

I am keenly aware this is a sensitive political issue for the British government. Not long after I suggested this last July in London, I received a letter from the Heathrow Noise Coalition politely telling me to mind my own business. One thing is clear, however, the British do not have a monopoly on political problems relating to Heathrow. I need not tell this audience that Heathrow access is a hot button political issue in the United States and, quite frankly, an issue that is straining relations between our two countries.

Let me close by saying an open skies agreement with Germany unquestionably would be the product of vision by both countries. I hope the same long-term economic vision will prevail in our aviation relations with the Japanese and the British. Again, thank you for the opportunity to join you today.

EXHIBIT 2

[From the Bangkok Post, Fri, Jan. 26, 1996]

U.S.-THAI AVIATION DEAL A VICTORY FOR COMMON SENSE

After five years of going eyeball to eyeball, the US and Thailand finally concluded an aviation agreement last January 19. Who blinked first? By all indications, Thailand. It had to, the policy of getting US airlines to reduce their frequencies between Northeast Asia and Thailand was working so brilliantly that it had to be scrapped and reversed. After all, Delta had pulled out of Thailand, both Northwest and United Airlines had reduced their frequencies. Lest anyone forget, that was the original intention for scrapping the agreement in November 1990. When the impact of that hit the tourism industry between the eyes, the backlash was instantaneous. In barely four rounds of informal and formal talks, an agreement materialized where about seven previous rounds had all failed.

There are many reasons for this agreement, and the speed at which it was pursued. But most important among them is that it risked becoming a serious political liability for Thailand's aviation negotiators who were running out of reasons for maintaining their hardline stand. The blast from the Association of Thai Travel Agents and its independent study on the aviation industry was one facet of the mounting pressure. Then there was all this talk of open-skies and aviation liberalization being pursued under the ASEAN and APEC umbrellas.

Thailand was being increasingly isolated as the US patched up its aviation differences, one by one, with other Asian and European countries. On the cargo front, the US-Filipino aviation agreement had opened a window of opportunity for Federal Express to develop Subic Bay as a regional cargo hub, a move that would leave Thailand's own Global Transpak project wallowing in the water. The American Society of Travel Agents annual convention is to be held in Bangkok in November, bringing 10,000 agents who would wonder how they are supposed to promote tourism to Thailand when the tourists can't fly here.

Moreover, the void was preventing the full consummation of the United Airlines-Thai International alliance. Both of Thailand's key aviation negotiators, the director-general of the aviation department and the permanent secretary of the ministry of communications, sit on THAI's board. By continuing to stall on the agreement, they were effectively hampering the progress of THAI. And soon coming to town as keynote speaker of the PATA conference in April is Garry Greenwald, the chairman of United Airlines who, lest anyone forget, recently tongue-lashed Japan's restrictive aviation policy and who would have no doubt have delivered a similar riposte at Thailand's had an agreement not been reached by then.

There was simply no way that Thailand could have won this battle. But neither is this agreement a victory for the United States. It is a victory for public pressure and the power of the Thai tourism, industry, especially groupings like the Association of Thai Travel Agents and people like Anant Sirisant who had the gumption to stand up and be counted, at considerable risk to himself and his own company, the East-West Group. While many other operators serve on committees and use their positions for personal aggrandizement, Mr. Anant stuck his neck out, and won.

Several months ago, this newspaper, too, called Thai aviation policy, "a national outrage." Suddenly, things began moving.

It has been said before, and it needs to be said again, global aviation is administered by archaic and backward 50-year-old rules that governments are having extreme difficult dismantling. There is no logical explanation for the structure any more; it's just the way it's done, especially in the absence of an alternative. Every country has to take its own course of action. In Thailand's case, every airline that comes here or increases its frequency is investing more in the country, providing more jobs, bringing more tourists. Restricting those operations necessarily has the reverse effect.

Foreign airlines serving Bangkok now need to forge stronger relationships with Thai hotels and tour operators, work with them, and use their political and economic strength to get what they want. This approach must, under no circumstances, be adversarial or aggressive, but always rational and constructive. If THAI is in the dumps, and likely to remain there for at least a few years as it seeks to regain its erstwhile prestige, there is no reason why other airlines should be hampered from raising their frequencies and bringing more tourists to spend their money in Thailand.

The U.S.-Thai deal is a clear victory for the concept of conducting the aviation business in an open and competitive manner. Because no matter what happens, it should always be the public that should benefit.

TRIBUTE TO EDMUND S. MUSKIE

Ms. MIKULSKI. Mr. President, I rise to pay tribute to the remarkable life of Edmund S. Muskie.

He was a great American, a true statesman, and I'm proud to say, a good friend.

Mr. President, I am the first woman of Polish heritage ever elected to the Senate. Ed Muskie took great pride in my election, since we shared a common heritage and a common set of values. He was gracious in helping me to learn the ways of the Senate. He was a strong mentor, and I have always been appreciative of the sound advice and concrete suggestions he offered to me.

He offered all of us a model of what a Senator should be. He stuck to principles, never afraid to take on the powers that be. He fought hard for what he believed in, but he bore no grudges. Edmund Muskie believed, as I do, that programs must deliver what they promise.

He made change his ally, and was never wedded to the past. If what we had been doing wasn't working, he fought to fix it. And he sought always to build consensus, to serve as a voice of moderation and practicality—in keeping with his New England roots.

I was proud to be a national co-chair of his campaign for the Presidency in 1972. It still strikes me as a great injustice that this good and decent man never had the opportunity to hold the highest office in the land. What a wonderful President he would have been.

Although he never realized his dream of becoming President, his contributions to our Nation were immense.

Edmund Muskie deserves the thanks of all Americans for his decades of public service. All of us who cherish our wilderness areas owe him a debt of gratitude for his steadfast defense of our environment as a distinguished Senator for 21 years. He was the father of the Clean Air Act and the Clean Water Act. The air we breathe is cleaner and the water we drink more pure because of Senator Muskie's dedication to environmental protection.

Those of us who care about fiscal responsibility—about making sure that

America's hardworking taxpayers get a dollar's worth of services for a dollar's worth of taxes—owe him thanks for his stewardship of the Senate Budget Committee. As Chairman of the Committee, Senator Muskie fought to curb excessive Federal spending, while also ensuring that the Government did not turn its back on those seeking a helping hand.

We owe him thanks for his service as Secretary of State under President Carter. He undertook that important responsibility at a difficult and sensitive time—while the President was working to free American hostages being held in Iran. And he fulfilled his duties with honor and wisdom.

Those of us who are Democrats also owe him a special debt. Virtually single-handedly he revitalized a dormant Democratic party in his beloved state of Maine. He became Maine's first Democratic Governor in 20 years.

Without him, the Senate might never had been honored by the service of our former Majority Leader, George Mitchell, and the United Nations might never had benefitted from the enormous contributions of Madeline Albright. He mentored them both, providing them with some of their first experiences in government.

Mr. President, America is a better place because of the dedicated public service over many decades of Edmund S. Muskie. I thank him and honor him for his service to our country.

My thoughts and prayers go out to his wife, Jane, his children and the entire Muskie family.

THE PASSING OF WILLIAM JENNINGS DYESS

Mr. HEFLIN. Mr. President, William Jennings Dyess, a long-time Foreign Service officer and State Department official, passed away recently at his home here in Washington. He was buried in his hometown of Troy, AL. An alumnus of the University of Alabama, where he received his B.A. and M.A. degrees and earned a Phi Beta Kappa key, Bill Dyess served for 25 years in the Foreign Service.

The University of Alabama National Alumni Association recently announced that a scholarship endowment had been established in his memory. I ask unanimous consent that the text of the announcement be printed in the RECORD. It tells the story of a remarkable public servant whose achievements in his field will long serve as benchmarks for those who follow him into diplomatic service.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

WILLIAM JENNINGS DYESS MEMORIAL SCHOLARSHIP ENDOWMENT FUND

Adopted and raised by a local barber and his wife, Tommie J. and Leota Mae Dyess, Billy—as he was affectionately known to his friends—started a ten-year career at The Troy Messenger, at age nine. He began first as a newspaper carrier and progressed through the ranks, to sports editor, and finally, city editor. Educated in the public schools of Troy, his senior year in 1947 he edited the Troy High School newspaper, which took five national honors.

Bill's passion for journalism found him at the University of Missouri, making Phi Eta Sigma honors, but an out-of-state tuition increase forced a return to his home state. Enrolling at the University of Alabama to train as a political scientist, he earned Phi Beta Kappa honors and graduated with a B.A. in 1950 and an M.A. in 1951. Although poor eyesight precluded his playing football, Bill's time at the University fueled his love for the sport. A Rotary International Scholarship, awarded by the Troy Chapter, took him to post-graduate work at Oxford University (St. Catherine's College). Later, he studied at Syracuse University's Maxwell School.

After college, Bill began a career that would take him far away from his hometown roots in Troy. One of his first stops would be a tour with U.S. Army Intelligence in Berlin from 1953–1956. In 1958, Bill left his Ph.D. studies at Syracuse to enter the foreign service of the U.S. Department of State. Serving primarily as a political officer in Belgrade, Copenhagen, and Moscow, and as chief of liaison in Berlin, he soon became a European specialist. In Washington, DC, he served tours as both the Czech and Soviet desk officer.

No matter where Bill was based, his central mission was meeting the Soviet challenge confronting the United States and its allies. He grappled with the Soviets mostly over bilateral affairs, maritime matters, and the status of a divided Berlin. Persona non grata in Moscow, Foreign Minister Gromyko attacked him by name before a group of U.S. Senators; Moscow denied him a visa and they seriously harassed him inside the Soviet Union, claiming he was an intelligence agent, which was false. Bill acknowledged, "Their real gripe was that as Soviet desk officer, I knew how to make life in Washington difficult for the KGB, and I did." In November 1974, Bill escorted Lithuanian-American Seaman Simus Kudirka and his family to freedom.

Bill left Soviet affairs in late 1975, "partly in order to lift my nose from the US–USSR bilateral grindstone and to see better the issues worldwide," he said. He then served as Deputy Assistant Secretary for Public Affairs, and in 1980, was appointed by President Carter as Assistant Secretary of State and later as interim spokesman. Drawing on his Soviet expertise, Dyess delivered dozens of talks before diverse audiences, using these occasions not merely to present Department views on such issues as nuclear deterrents, the grain embargo, and SALT (Strategic Arms Limitations Treaty) but also "to listen closely to what American citizens were saying. The State Department has learned that any foreign policy that lacks broad public support cannot be long sustained."

Over the years, Bill's duties frequently brought him into contact with the U.S. Congress, where his work on inter-agency committees made him well-known in the executive levels of government. He received the State Department's Superior Honor Award and Meritorious Honor Award. White House contacts extended over several Republican and Democratic administrations and in 1981, President Reagan appointed Bill as Ambassador to The Netherlands.

As Ambassador, Bill was responsible for every phase of U.S-Dutch relations, including military installations. He was credited with persuading Dutch officials and Parliamentarians to reexamine their positions on fulfilling NATO goals after the peace movement's protests stirred strong public anti-American sentiment. Bill enjoyed strong ties with the Dutch business community, then the largest direct investor in the U.S. from abroad. Before his retirement in 1983, The Netherlands awarded him the Grand Cross in the Order of Orange-Nassau, the highest decoration given to foreigners.

For Bill, retirement from government service meant another exciting beginning as he started his own consulting business, WmDyess Associates, Inc., in Washington, DC. Clients—he did not work for foreign governments—were in publishing, manufacturing, shipping and oil explorations.

Aside from running his own business, Bill was able to devote much of his time to the alumni activities of both Oxford University and the University of Alabama. He was particularly active with his local Alabama alumni chapter, the National Capital Chapter, where he promoted scholarship fundraising events. Serving as honorary scholarship chairman, on one such occasion, he organized a scholarship dinner for former University of Alabama President Dr. Frank Rose. On another occasion, Bill brought in Pulitzer Prize winner, Dr. Edward O. Wilson. Bill was a generous contributor of his time and money to the Alumni Associations' efforts.

An avid college football fan, Bill was a loyal supporter of the Alabama Crimson Tide. He read a book a week and was devoted to the subject of astrophysics. Bill was fluent in German, Russian, and Serbo-Croatian.

After a long bout with prostate cancer, at 66, Bill passed away on January 6, 1996 at his home in Washington, DC, and was buried with full military honors at Green Hills Cemetery in Troy, Alabama, next to his parents. His son, Chandler, and his beloved Jack Russell terrier, Pistol Ball, live in Washington, DC.

In memory of Bill's dedication to public service, his friends, with his family's support, have established a scholarship endowment at the University of Alabama National Alumni Association.

NEAL BERTE'S 20 YEARS AT BIRMINGHAM-SOUTHERN COLLEGE

Mr. HEFLIN. Mr. President, Dr. Neal R. Berte recently celebrated his 20th year as president of my undergraduate alma mater, Birmingham-Southern College. He has been, and continues to be, an outstanding spokesman, administrator, and scholarly leader of one of the Nation's very best liberal arts colleges.

A native of Ohio, Dr. Berte and his wife, Anne, have four grown children and two grandchildren. He obtained his bachelor's, master's, and doctoral degrees all at the University of Cincinnati. A member of Phi Beta Kappa honor society, he also holds honorary doctoral degrees from Birmingham-Southern and Cincinnati. He served as an associate professor at the University of Alabama from 1970 through 1974 and as the university's vice president for educational development from 1974 until 1976. He also served as dean of the university's New College from 1970

until 1976 when, on February 1, he became president of Birmingham-Southern College.

Dr. Berte is recognized as one of the most accomplished, successful educational professionals of our time. Under his stewardship, Birmingham-Southern's endowment has increased from $14 million to $82 million and its student population, made up of some of the brightest high school graduates in the State and Nation, has more than doubled. Acceptance of its graduates to medical and law schools is among the highest in the South and its outstanding faculty has increased by 66 percent during his tenure as president. He has also overseen the construction of eight new campus buildings.

The campus of Birmingham-Southern, known as The Hilltop, has an atmosphere of learning and of intellectual achievement. This atmosphere is reflected in the fact that the school is consistently recognized as one of the top national liberal arts colleges by such prestigious publications as U.S News and World Report, National Review, Money Magazine, the Insider's Guide to the Colleges, Southern Magazine, and the Princeton Review.

The National Review's College Guide has said, "An ambiance of graciousness, a tradition of academic excellence, and close student-faculty relations have made Birmingham-Southern College one of the standout liberal arts colleges in the South * * *" U.S. News calls it a " * * * trailblazer for higher education of the future." These kinds of accolades are a direct reflection of the school president's strong commitment, total dedication, and superb leadership skills.

Birmingham-Southern College's graduates of all ages speak often of the deep pride and affection they have for their alma mater. Indeed, the school enjoys an uncommonly strong level of support among its loyal and generous alumni. Even those of us who were students there long before Dr. Berte's arrival 20 years ago have enjoyed a renewed sense of pride in Birmingham-Southern since he became president.

Birmingham-Southern does not have a football program, but its basketball team has won two National Association of Intercollegiate Athletics [NAIA] championships in the past 7 years, most recently in 1995. Its baseball team has advanced to the NAIA World Series on three occasions.

Dr. Berte's many honors and awards include his induction into the Alabama Academy of Honor; his selection as Birmingham's Citizen of the Year; his selection as one of the 100 Most Effective College Presidents by the Council for Advancement and Support of Education; and his recognition as one of America's Leaders in Higher Education by the American Council on Education.

Birmingham's morning newspaper, the Post-Herald, carried a front-page feature on his life and career on February 6 and an editorial on his tenure at Birmingham-Southern the next day. I ask unanimous consent that the text of these articles be printed in the RECORD.

I want to commend and congratulate Dr. Neal Berte for his impeccable leadership, clear vision, and total dedication to the field of higher education in general and to Birmingham-Southern in particular. As a proud alumnus of the college, I have no doubt that his next 20 years there will be just as productive and vibrant as his first. It could not be in more capable hands.

There being no objection, the material was ordered to be printed in the Record, as follows;

[From the Birmingham Post-Herald, Feb. 6, 1996]

BERTE LOOKS TO THE FUTURE AT BSC

(By Michaelle Chapman)

When you ask Neal R. Berte about his future, expect him to talk about his goals for Birmingham-Southern College.

Berte celebrated his 20th anniversary as president there Thursday.

He has had plenty of opportunities to go elsewhere but said, "I feel sort of content."

That's not to say Berte has no goals for the small liberal arts school he helped build into one of the best of its kind in the nation.

But he really can't envision a job offer good enough to persuade him to leave the Hilltop and the city he has come to call home.

At 55, Berte is a slim and energetic man who puts those in his company at ease with his friendly but earnest manner.

While many college presidents confine their interests to campus, Berte's voice is heard far beyond the gates of Birmingham-Southern.

Berte is an example to his students, whom he expects to get involved in the community.

He's chairman of Leadership Birmingham and the Birmingham Business Leadership Group, made up of the chief executive officers of 45 of Birmingham's largest businesses.

His past positions have included chairman of the Birmingham Area Chamber of Commerce and campaign chairman and president of the United Way of Central Alabama. He's also been Birmingham's Citizen of the Year and been inducted into the city's Distinguished Gallery of Honor.

Birmingham-Southern students follow in Berte's footsteps in their amount of community involvement. "Every year, over half of our students and faculty are out in service to others," Berte said.

"We've been here long enough that I've seen them go out and make a difference in terms of their careers but also make a difference as far as their civic involvements, in the life of the communities where they live, in the life of their churches."

Berte said he gets to know the names of most students. "We work at trying to treat each student as an individual. * * * I think somehow knowing someone's name does make a difference, so I work at it," he said.

Students who get up early to exercise can find Berte in the college's old gym at 6 a.m. either running or doing weight training. He's in his office by about 8:15 a.m. and spends many evenings at on-campus functions or events around town.

Ed LaMonte, a Birmingham-Southern professor who is on leave while serving as interim superintendent of Birmingham schools, said Berte is an excellent example of leadership.

"He has simply stepped forward time after time to play a very important role in what is in the best interest of the city. * * * He has, on occasions, played a role that has cost the college a bit in terms of support but has served the community well," LaMonte said.

"He's the personification of the word 'leader,'" said Don Newton, president of the Chamber of Commerce. "I have never seen him tackle anything that he didn't complete the task."

Herbert A. Sklenar, chairman of the Birmingham-Southern Board of Trustees, believes Berte's involvement in the community is part of the reason why the school is doing so well.

"He took an institution that had a great tradition and history but was faltering somewhat and has turned it around and, by all kinds of measurements, turned it into a success," Sklenar said.

Twenty years ago, Berte said, "There were some large problems * * * that probably were reflective of many colleges and universities across the country. * * * We had a declining enrollment. We were operating on a deficit budget. I think it's fair to say the general public did not have a real positive attitude about the value of liberal arts education."

But the trustees were committed, the faculty was outstanding and the students were capable, he said.

Berte pulled all those forces together and began improving the school, which had abut 827 students. Today, 1,562 students are enrolled at Birmingham-Southern.

Other things are changing at Birmingham-Southern as well—much of it as part of the Toward the 21st Century Campaign, a $64 million fundraising effort that began last May. Pledges for $46 million have been received so far.

Berte is proud that the endowment has grown to $82.2 million from $14 million.

In the past few years, Birmingham-Southern has gotten considerable national recognition from magazines, publications and foundations that rate colleges and universities.

"That is good for Birmingham-Southern . . . but I'd like to believe it also is good for Birmingham and for Alabama," Berte said.

[From the Birmingham Post-Herald, Feb. 7, 1996]

20 YEARS OF LEADERSHIP

Twenty years ago, the future looked dim for many small, private liberal arts colleges. Declining enrollments and troubled financial conditions forced many such schools out of existence. Others survived by abandoning much of their distinctiveness through merger into other colleges and universities or becoming taxpayer-funded institutions. People were even questioning whether a liberal arts education still had any value.

Among the colleges in trouble was Birmingham-Southern College. Enrollment was down significantly, the college had a budgetary deficit and the college presidency had changed hands several times in a very short period.

Then, on Feb. 1, 1976, Neal Berte became college president. Under his leadership, the Methodist institution enhanced what were still strong academic programs, rebuilt its finances and reversed the erosion of a tradition of community involvement.

If Berte had done nothing more in the past 20 years than restore Birmingham-Southern's standing as one of the best liberal

arts colleges in this part of the country, he would deserve high praise. But as anybody who follows public life in this community must know, he has done much more.

There is hardly a facet of civic life that has not been affected—for the better—by Berte. He holds or has held chairmanships in several organizations. But even more important has been his ability to bring other leaders and potential leaders together in ways that improve Birmingham for all of us. He has been a much-needed catalyst for change.

Anybody seeking an example of what being a leader means need look no farther than the Birmingham-Southern hilltop campus and the office of Neal Berte.

REPORT ON THE ADMINISTRATION OF THE RADIATION CONTROL FOR HEALTH AND SAFETY ACT FOR CALENDAR YEAR 1994—MESSAGE FROM THE PRESIDENT—PM 135

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Labor and Human Resources.

To the Congress of the United States:

In accordance with section 540 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360qq) (previously section 360D of the Public Health Service Act), I am submitting the report of the Department of Health and Human Services regarding the administration of the Radiation Control for Health and Safety Act of 1968 during calendar year 1994.

The report recommends the repeal of section 540 of the Federal Food, Drug, and Cosmetic Act that requires the completion of this annual report. All the information found in this report is available to the Congress on a more immediate basis through the Center for Devices and Radiological Health technical reports, the Radiological Health Bulletin, and other publicly available sources. The Agency resources devoted to the preparation of this report could be put to other, better uses.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *March 27, 1996.*

REPORT ON THE TRADE AGREEMENTS PROGRAM FOR CALENDAR YEAR 1995 AND THE TRADE POLICY AGENDA FOR CALENDAR YEAR 1996—MESSAGE FROM THE PRESIDENT—PM 136

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Finance.

To the Congress of the United States:

As required by section 163 of the Trade Act of 1974, as amended (19 U.S.C. 2213), I transmit herewith the 1996 Trade Policy Agenda and 1995 Annual Report on the Trade Agreements Program.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *March 27, 1996.*

MESSAGES FROM THE HOUSE

At 10:14 a.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following joint resolution, in which it requests the concurrence of the Senate:

H.J. Res. 158. Joint resolution to recognize the Peace Corps on the occasion of its 35th anniversary and the Americans who have served as Peace Corps volunteers.

The message also announced that the House has agreed to the following concurrent resolutions, in which it requests the concurrence of the Senate:

H. Con. Res. 146. Concurrent resolution authorizing the 1996 Special Olympics Torch Relay to be run through the Capitol Grounds.

H. Con. Res. 147. Concurrent resolution authorizing the use of the Capitol Grounds for the fifteenth annual National Peace Officers' Memorial Service.

MEASURES REFERRED

The following bill was read the first and second times by unanimous consent and referred as indicated:

H.J. Res. 158. Joint resolution to recognize the Peace Corps on the occasion of its 35th anniversary and the Americans who have served as Peace Corps volunteers; to the Committee on Foreign Relations.

MEASURES PLACED ON THE CALENDAR

Pursuant to the order of February 9, 1996, the following measure was placed on the calendar:

H.R. 849. An act to amend the Age Discrimination in Employment Act of 1967 to reinstate an exemption for certain bona fide hiring and retirement plans applicable to State and local firefighters and law enforcement officers; and for other purposes.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-2189. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, the report of the texts of international agreements, other than treaties, and background statements; to the Committee on Foreign Relations.

EC-2190. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, the report of a Secretary of State Determination relative to Israel; to the Committee on Foreign Relations.

EC-2191. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, the report on agency compliance with respect to unfunded mandates reform; to the Committee on Governmental Affairs.

EC-2192. A communication from the Administrator of the General Services Administration, transmitting, pursuant to law, the report relative to cost of travel and privately owned vehicles of federal employees; to the Committee on Governmental Affairs.

EC-2193. A communication from the Chairman of the Board of Governors of the Federal Reserve, transmitting, pursuant to law, a report relative to the implementation of its administrative responsibilities during calendar year 1995; to the Committee on Governmental Affairs.

EC-2194. A communication from the Administrator of the National Aeronautics and Space Administration, transmitting, pursuant to law, the report under the Freedom of Information Act for calendar year 1995; to the Committee on the Judiciary.

EC-2195. A communication from the Vice President and General Counsel of the Overseas Private Investment Corporation, transmitting, pursuant to law, the report under the Freedom of Information Act for calendar year 1995; to the Committee on the Judiciary.

EC-2196. A communication from the Chairman of the Commodity Futures Trading Commission, transmitting, pursuant to law, the report under the Freedom of Information Act for calendar year 1995; to the Committee on the Judiciary.

EC-2197. A communication from the Board Members of the Railroad Retirement Board, transmitting a draft of proposed legislation to amend the Railroad Retirement Act to conform the statute of limitations with respect to the creditability of compensation under that Act to the statute of limitations with respect to the payment under the Railroad Retirement Act and for other purposes; to the Committee on Labor and Human Resources.

EC-2198. A communication from the Secretary of Transportation, Commonwealth of Virginia, transmitting, pursuant to law, the final report on the I-66 HOV-2 Demonstration Project; to the Committee on the Environment and Public Works.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM-523. A concurrent resolution adopted by the Legislature of the State of Arizona; to the Committee on the Judiciary.

"SENATE CONCURRENT RESOLUTION 1014

"Whereas, separation of powers is fundamental to the United States Constitution and the power of the federal government is strictly limited; and

"Whereas, under the United States Constitution, the states are to determine public policy; and

"Whereas, it is the duty of the judiciary to interpret the law, not to create law; and

"Whereas, our present federal government has strayed from the intent of our founding fathers and the United States Constitution through inappropriate federal mandates; and

"Whereas, these mandates by way of statute, rule or judicial decision have forced state governments to serve as the mere administrative arm of the federal government; and

"Whereas, federal district courts, with the acquiescence of the United States Supreme

Court, continue to order states to levy or increase taxes to comply with federal mandates; and

"Whereas, these court actions violate the United States Constitution and the legislative process; and

"Whereas, the time has come for the people of this great nation to further define the role of the courts in their review of federal and state laws; and

"Whereas, several states have petitioned the United States Congress to propose an amendment to the Constitution of the United States of America; and

"Whereas, the amendment was previously introduced in Congress; and

"Whereas, the amendment seeks to prevent federal courts from levying or increasing taxes without representation of the people and against the people's wishes; and

"Whereas, the State of Arizona desires that the United States Congress acknowledge and act upon this expression of the intent of the various states without the necessity of those states calling a constitutional convention as authorized in Article V of the Constitution of the United States: Therefore, be it

Resolved by the Senate of the State of Arizona, the House of Representatives concurring:

"1. That the Congress of the United States prepare and submit to the several states an amendment to the Constitution of the United States to add a new article providing as follows: "Neither the Supreme Court nor any inferior court of the United States shall have the power to instruct or order a state or political subdivision thereof, or an official of such a state or political subdivision, to levy or increase taxes".

"2. That this application constitutes a continuing application in accordance with Article V of the Constitution of the United States.

"3. That the Legislature of the State of Arizona also proposes that the legislatures of each of the several states comprising the United States that have not yet made similar requests apply to the United States Congress requesting enactment of an appropriate amendment to the United States Constitution, and apply to the United States Congress to propose such an amendment to the United States Constitution.

"4. That the Secretary of State of the State of Arizona transmit copies of this Resolution to the presiding officer in each house of the legislature in each of the other states in the Union, the Speaker of the United States House of Representatives, the President of the United States Senate and to each Member of the Arizona Congressional Delegation."

POM-524. A concurrent resolution adopted by the Legislature of the State of Hawaii to the Committee on the Judiciary.

"HOUSE CONCURRENT RESOLUTION NO. 14

"Whereas, the Omnibus Budget Reconciliation Act of 1993 signed into law by President Clinton on August 10, 1993, included the largest tax increase in history: $115 billion in new taxes and a forty-seven percent increase in income tax rates; and

"Whereas, the income, estate, and gift tax components of the tax increase were retroactive, taking effect on January 1, 1993; and

"Whereas, Treasury Secretary Bentsen has declared that more than one and one-quarter million small businesses will be subject to retroactive taxation despite the administration's claim that the tax increase "only affected the rich"; and

"Whereas, the retroactivity of the Omnibus Budget Reconciliation Act of 1993 is unprecedented in that it became effective during a previous administration-Before President Clinton or the 103rd Congress even took office; and

"Whereas, the passage of the bill resulted in loud public outcry against retroactive taxation; and

"Whereas, retroactive taxation places an unfair and intolerable burden on the American taxpayer; and

"Whereas, retroactive taxation is wrong, it is bad policy, and it is a reprehensible action on the part of the government; now, therefore, be it

"Resolved by the House of Representatives of the Eighteenth Legislature of the State of Hawaii, Regular Session of 1995, the Senate concurring, That the Legislature of the State of Hawaii memorialize the Congress of the United States to propose and submit to the several states an amendment to the Constitution of the United States that would provide that no federal tax shall be imposed for the period before the date of the enactment of the retroactive tax; and

"Resolved, That certified copies of this Concurrent Resolution be transmitted to the President of the United States, the Secretary of the United States Senate, the Clerk of the United States House of Representatives, Hawaii's Congressional delegation, the Speaker of the House of Representatives, and the Senate President."

POM-525. A concurrent resolution adopted by the Legislature of the State of Louisiana; to the Committee on the Judiciary.

"SENATE CONCURRENT RESOLUTION NO. 11

"Whereas, in recent years the federal judges, with the support of the United States Supreme Court, have imposed taxes or required the increase of taxes to raise the revenue to support various court orders; and

"Whereas, the judicial branch of government is making more decisions which affect the everyday life of citizens; and

"Whereas, taxation must be the exclusive prerogative of elected representatives and not be subject to imposition by an appointed judiciary; and

"Whereas, attempted judicial preemption in a matter as critical to the welfare of states and the people represented by state legislatures as taxation requires a response; and

"Whereas, the Missouri Legislature has passed a concurrent resolution requesting Congress to propose an amendment to the United States Constitution to restrict the power of the federal courts in this area; and

"Whereas, Colorado, Tennessee, and New York have already joined Missouri in its effort by adopting the identical language demonstrating the solidarity of state legislatures on this issue: Therefore, be it

"Resolved, That the Legislature of Louisiana memorializes the Congress of the United States to adopt and propose an amendment to the Constitution of the United States to read as follows: 'Neither the Supreme Court nor any inferior court of the United States shall have the power to instruct or order a state or political subdivision thereof, or an official of such state or political subdivision, to levy or increase taxes.' Be it further

"Resolved, That a duly attested copy of this Resolution be immediately transmitted to the president of the United States, to the secretary of the United States Senate, to the clerk of the United States House of Representatives, and to each member of the Louisiana delegation to the United States Congress."

POM-526. A concurrent resolution adopted by the Legislature of the State of South Dakota; to the Committee on the Judiciary.

"HOUSE CONCURRENT RESOLUTION NO. 1010

"Whereas, in Missouri v. Jenkins (495 U.S. 33, 110 S.Ct. 1691 (1990)), the Supreme Court held that a federal court had the power to order an increase in state and local taxes thereby violating a fundamental tenet of the separation of powers: that members of the federal judiciary, who serve for life and are answerable to no one, should not have control over the power of the purse; and

"Whereas, section 8 of Article I of the Constitution of the United States vests with the legislative branch of government alone the extraordinary power to 'lay and collect taxes, duties, imposts, and excises, to pay the debts and provide for the common defense and general welfare of the United States'; and

"Whereas, the courts' action are an intrusion into a legitimate political debate over state spending priorities and not a response to a constitutional directive; and

"Whereas, Justice Kennedy observed in his dissent in Missouri v. Jenkins that 'this assertion of judicial power in one of the most sensitive of policy areas, that involving taxation, begins a process that one time could threaten fundamental alteration of the form of government our Constitution embodies'; and

"Whereas, since 1990, when the Supreme Court declared in Missouri v. Jenkins that the federal courts have the authority and power to levy and increase taxes, Congress has chosen not to intercede on behalf of the people to protect the democratic process which has been corrupted by the unconstitutional authority and power to tax which the federal courts have exercised; and

"Whereas, the time has come for the people of this great nation, and their duly elected representatives in state government, to reaffirm, in no uncertain terms, that the authority to tax under the Constitution of the United States is retained by the people who, by their consent alone, do delegate such power to tax explicitly to those duly elected representatives in the legislative branch of government who they choose, such representatives being directly responsible and accountable to those who have elected them: Now, therefore, be it

"Resolved, by the House of Representatives of the Seventy-first legislature of the State of South Dakota, the Senate concurring therein, That application is hereby made pursuant to Article V of the United States Constitution for an amendment to the Constitution reading substantially as follows: 'Neither the Supreme Court nor any inferior court of the United States shall have the power to instruct or order a state or political subdivision thereof, or an official of such state or political subdivision, to levy or increase taxes.'; and be it further

"Resolved, That this petition constitutes a continuing application in accordance with Article V of the Constitution of the United States; and be it further

"Resolved, That this legislative body requests the legislatures of the several states comprising the Union to make similar application to Congress for the purpose of proposing such an amendment to the United States Constitution.".

POM-527. A resolution adopted by the Senate of the Legislature of the State of Kansas; to the Committee on Labor and Human Resources.

"SENATE RESOLUTION NO. 1824

"Whereas, improving patient access to quality health care is a paramount national goal; and

"Whereas, the key to improved health care, especially for persons with serious unmet medical needs, is the rapid approval of safe and effective new drugs, biological products and medical devices; and

"Whereas, minimizing the delay between discovery and eventual approval of a new drug, biological product or medical device derived from research conducted by innovative pharmaceutical and biotechnology companies could improve the lives of millions of Americans; and

"Whereas, current limitations on the dissemination of information about pharmaceutical products reduce the availability of information to physicians, other health care professionals and patients, and limits the right of free speech guaranteed by the First Amendment to the United States Constitution; and

"Whereas, the current rules and practices governing the review of new drugs, biological products and medical devices by the United States Food and Drug Administration can delay approvals and are unnecessarily expensive: Now, therefore, be it

"*Resolved by the Senate of the State of Kansas*, That we respectfully urge the Congress of the United States to address this important issue by enacting comprehensive legislation to facilitate the rapid review and approval of innovative new drugs, biological products and medical devices, without compromising patient safety or product effectiveness; and be it further

"*Resolved*, That the Secretary of the Senate be directed to send enrolled copies of this resolution to the President of the United States, the President of the United States Senate, the Speaker of the United States House of Representatives and to each member of the Kansas Congressional Delegation."

POM-528. A concurrent resolution adopted by the Legislature of the State of West Virginia; to the Committee on Labor and Human Resources.

"HOUSE CONCURRENT RESOLUTION 18

"Whereas, improving patient access to quality health care is the number one national goal; and

"Whereas, the key to improved health care, especially for persons with serious unmet medical needs, is the rapid approval of safe and effective new drugs, biological products and medical devices; and

"Whereas, two thirds of all new drugs approved in the last six years by the Food and Drug Administration were approved first in other countries with approval of a new drug currently taking 14.8 years; and

"Whereas, the United States has long led the world in discovering new drugs, but too many new medicines first are introduced in other countries, with forty drugs currently approved in one or more foreign countries still in development in the United States or awaiting FDA approval; and

"Whereas, the patient is waiting for the industry to discover and efficiently develop safe and effective new medicines and for the FDA to facilitate the development and approval of safe medicines sooner; and

"Whereas, there is a broad bipartisan consensus that the FDA must be re-engineered to meet the demands of the twenty-first century; and

"Whereas, the current rules and practices governing the review of new drugs, biological products and medical devices by the United States Food and Drug Administration can delay approvals and are unnecessarily expensive; therefore, be it

"*Resolved by the Legislature of West Virginia:* That this Legislature respectfully urges: the Congress of the United States to address this important issue by enacting comprehensive legislation to facilitate the rapid review and approval of innovative new drugs, biological products and medical devices, without compromising patient safety or product effectiveness; and, be it further

"*Resolved*, That the Clerk of the House of Delegates be hereby directed to transmit appropriate copies of this resolution to the President of the United States, the Speaker of the United States House of Representatives, the President of the United States Senate, and to each member of the West Virginia Delegation of the Congress."

POM-529. A resolution adopted by the Legislature of the Commonwealth of Puerto Rico; to the Committee on Foreign Relations.

"H.R. 5231

"The House of Representatives, as a body representing the People of Puerto Rico, deems it prudent to express to the Cuban community the indignation of the People of Puerto for those vicious murders and to urge the President and the members of the Congress of the United States of America to take all the measures directed to vindicating the memory of these four people, preventing the strategy of repression of the Cuban government against dissident groups and to attain the establishment of a democratic system of government in Cuba, based on respect for human dignity. Be it

"*Resolved by the House of Representatives of Puerto Rico:*

"SECTION 1. To express the repudiation and indignation of the House of Representatives of Puerto Rico for the cowardly murder of four (4) members of the humanitarian organization "Brothers to Rescue" by the armed forces of the totalitarian regime of Fidel Castro.

"SECTION 2. To urge the President and the members of the Congress of the United States of America to take all the measures needed to prevent the strategy of repression of the Cuban government against dissident groups and to attain the establishment of a democratic system of government in Cuba, based on respect for human dignity.

"SECTION 3. This Resolution shall be translated into the English language and remitted to the President of the United States and to the President and Speaker of both Bodies of the Congress of the United States of America.

"SECTION 4. A copy of this Resolution shall also be remitted to the Ambassadors of the United States of America and of Cuba at the United Nations Organization as well as to the Secretary General of said International Organization.

"SECTION 5. This Resolution shall take effect immediately after its approval."

POM-530. A resolution adopted by the Legislature of the Virgin Islands; to the Committee on Energy and Natural Resources.

"RESOLUTION NO. 1552

"Whereas, in 1968 and 1973, the Congress of the United States found it necessary to enact the National Flood Insurance Act of 1968, and the Flood Disaster Protection Act of 1973; and

"Whereas, in considering the National Flood Insurance Act of 1968 and the Flood Disaster Protection Act of 1973, the Congress of the United States found the following to be true:

"'(1) From time to time, flood disasters have created personal hardships and economic distress which have required unforeseen disaster relief measures and have placed an increasing burden on the Nation's resources.

"(2) Despite the installation of preventive and protective works, and the adoption of other public programs designed to reduce losses caused by flood damage, these methods have not been sufficient to adequately protect against growing exposure to future flood losses.

"(3) As a matter of national policy, a reasonable method of sharing the risk of flood losses is through a program of flood insurance which can complement and encourage preventive and protective measures.

"(4) If such a program is initiated and gradually carried out, it can be expanded as knowledge and experience are gained, eventually making flood insurance coverage available on reasonable terms and conditions to persons who have need for such protection.

"(5) Many factors have made it economically difficult for the private insurance industry alone to make flood insurance available to those in need of such protection on reasonable terms and conditions.

"(6) A program of flood insurance which includes the large-scale participation of the Federal Government carried out to the maximum extent practicable by the private insurance industry is feasible and can be initiated.

"(7) Federal instrumentalities insure or otherwise provide financial protection to banking and credit institutions whose assets include a substantial number of mortgage loans and other indebtedness secured by property exposed to loss and damage from floods and mud-slides.

"(8) The nation cannot afford the tragic loss of live caused annually by floods, nor the increasing property losses suffered by flood victims, most of whom are still inadequately compensated despite receiving disaster relief benefits.

"(9) It is in the public interest for persons already living in flood-prone areas to have an opportunity to purchase flood insurance and to have access to more adequate limits of coverage, so that they will be indemnified for their losses in the event of future flood disasters"; and

"Whereas, Hurricane Marilyn's high sustained and gusting winds caused the Territory of the United States Virgin Islands to suffer catastrophic damage in the billions of dollars; and also caused the territory to be declared a federal disaster area by President Clinton; and

"Whereas, Hurricane Opal's high sustained and gusting winds have devastated certain areas of the United States gulf coast and the Mexican coast; and

"Whereas, Hurricane Luis which threatened the United States Virgin Islands with Category 4 force winds and resulted in some physical damage to the territory; and

"Whereas, Hurricane Hugo's high sustained and gusting winds devastated the United States Virgin Islands, particularly St. Croix, and South Carolina in 1989, resulting in damage in the billions of dollars; and

"Whereas, Hurricane Andrew's high sustained and gusting winds devastated certain areas of southern Florida in 1992, resulting in damage in the billions of dollars; and

"Whereas, in light of a long history of hurricanes and their accompanying windstorms

wreaking death and destruction in the United States, its possessions in the Caribbean sea and in the Pacific; and

"Whereas, the migration of people to coastal areas of the United States, and to its possessions including the U.S. Virgin Islands have increased; and

"Whereas, recent scientific warnings about global warming and its effect on global weather patterns are predicting more frequent and intense hurricane activity; and

"Whereas, the periodic absence of the "El Nino" phenomenon increases the likelihood of the formation of hurricanes; and

"Whereas, the Legislature of the Virgin Islands finds that the history of past hurricane and windstorm activity, and the prospect of increased hurricane and windstorm activity affecting the United States and its possessions (including the U.S. Virgin Islands) present the same, or similar, considerations which led to enactment of the National Flood Insurance Act of 1968, and the Flood Disaster Protection Act of 1973; and

"Whereas, the following is from the National Flood Insurance Act:

"(1) Windstorms have created personal hardships and economic distress which have required unforeseen disaster relief measures and have placed an increasing burden on the Nation's resources.

"(2) Installation of preventive and protective works . . . have not been sufficient to protect adequately against growing exposure to future [windstorm] losses.

"(3) As a matter of national policy, a reasonable method of sharing the risk of [windstorm] losses is through a program of [windstorm] insurance.

"(4) If such a program is initiated . . . it can [make windstorm insurance] coverage available on reasonable terms and conditions.

"(5) Many factors have made it uneconomical for the private insurance industry alone to make [windstorm] insurance available to those in need of such protection on reasonable terms and conditions.

"(6) A program of [windstorm] insurance with large-scale participation of the federal government carried out to the maximum extent practicable by the private insurance industry is feasible and can be initiated.

"(7) Federal instrumentalities insure or otherwise provide financial protection to banking and credit institutions whose assets include a substantial number of mortgage loans and other indebtedness secured by property exposed to loss and damage from [windstorms].

"(8) The nation cannot afford . . . the increasing losses of property suffered by [windstorm] victims, most of whom are still inadequately compensated despite the provision of costly disaster relief benefits.

"(9) It is in the public interest for persons already living in [windstorm-prone] areas to have both an opportunity to purchase [windstorm] insurance and access to more adequate limits of coverage, so that they will be indemnified for their losses in the event of future [windstorm] disasters." Now, therefore, be it

"*Resolved by the Legislature of the Virgin Islands:*

"SECTION 1. The Legislature of the Virgin Islands, on behalf of the people of the Virgin Islands, respectfully and urgently petitions the United States Congress to establish a National Windstorm Insurance Program, to be patterned after the National Flood Insurance Program.

"SECTION 2. Copies of this resolution shall be forwarded to the President of the United States, each member of the United States Congress, and the Virgin Islands Delegate to Congress. Copies of this resolution shall also be forwarded to the Governor and the Legislature of every state and possession of the United States located in a windstorm-prone area. These various jurisdictions shall be asked to adopt this resolution and to join with the United States Virgin Islands in petitioning Congress to establish a National Windstorm Insurance Program because they would also benefit from such a program."

POM-531. A resolution adopted by the House of the Legislature of the State of Georgia; to the Committee on Energy and Natural Resources.

"H.R. No. 850

"Whereas, a proposal has been made to the United States Congress to sell facilities used by the Southeastern Power Administration (SEPA) which is headquartered in Elbert County, Georgia; and

"Whereas, these facilities, which include nine hydroelectric dams, provide electric power and reservoirs for Georgia; and

"Whereas, all of these facilities, operated by the United States Army Corps of Engineers, also provide the public with needed fish and wildlife resources, municipal, industrial, and agricultural water supplies, flood control, reservoir and downstream recreational uses, and river water level regulation; and

"Whereas, such proposed sale would give too little assurance that these assets will be administered with due consideration to the purposes of the facilities not related to power production, such as water supply, flood control, navigation, recreation, and environmental protection; and

"Whereas, the revenue from the electricity generated by the hydroelectric dams exceeds the retirement obligations of the construction bonds and costs of operation and maintenance for these facilities; and

"Whereas, many Georgians served by these facilities could likely experience significant rate increases in electricity and water as a result of this sale: Now, therefore, be it

"*Resolved by the House of Representatives*, That the members of this body urge the United States Congress to reevaluate the negative impacts of this proposal and avoid any transfer of federal dams, resources, turbines, generators, transmission lines, and related power marketing association facilities. Be it further

"*Resolved*, That the Clerk of the House of Representatives is authorized and directed to transmit an appropriate copy of this resolution to the Speaker of the United States House of Representatives, the presiding officer of the United States Senate, and members of the Georgia congressional delegation."

POM-532. A resolution adopted by the House of the Legislature of the Commonwealth of Puerto Rico; to the Committee on Energy and Natural Resources.

"HOUSE CONCURRENT RESOLUTION NO. 35

"United States legislation on coasting trade limits the transit of ships between points in the United States, including its territories and possessions, directly or through a foreign port, to ships built and registered in the United States. 46 U.S.C. 883 (1988). Said legislation is applicable not only to the ports of the fifty states, but also to those of the territories and possessions. 46 U.S.C. 887 (1988). The Virgin Islands has been the only territory excluded from the application of this legislation, through an amendment approved in 1936. Ch. 228. 49 Stat. 1207.

"Said legislation is applicable to Puerto Rico since 1900, when, upon the approval of the first organic act (Foraker Act), the Congress provided that the coasting trade between Puerto Rico and the United States shall be regulated in accordance with the provisions of law applicable to such trade between any two great coasting districts of the United States. Furthermore, Puerto Rico constitutes, according to federal coasting trade laws, one of the 'great coasting districts' of the United States. Upon the approval of the Jones Act in 1917, Congress provided that the 'laws on tariffs, customs and taxes on imports to Puerto Rico prescribed in the Act (Foraker) would continue in effect.' Ch. 145, Section 58, 39 Stat. 968 (1917). This provision maintained the effectiveness of the coasting trade laws, which are still in force.

"Due to our geographic condition as an island, the significantly higher costs of maritime transportation in ships of North American registration and the juridical impossibility of using foreign flag ships, Puerto Rico has always been deprived of the advantages of free competition in the maritime transportation market.

"In the United States, there is a growing awareness that the coasting trade legislation is very inefficient and to a certain extent, obsolete. The benefits derived by the limited maritime sector are comparably inferior to those that would be derived by the total United States economy, through a new scheme of free competition in maritime transportation. Important sectors of the government of the United States have proposed the elimination or modification of coasting trade laws as part of their efforts to eliminate those areas in which there is a waste of resources, bureaucracy and inefficiency.

"In an increasingly interdependent world, Puerto Rico needs greater flexibility to take advantage of the options offered in the international market. To attain greater economic development, it is essential to reduce the dependency on federal transfers and tax privileges which diminish the dignity of the People, individually and collectively, and which represent an undue burden on the government and taxpayers of the United States. One way of achieving this objective is through the exclusion of Puerto Rico from the scope of application of the federal coasting trade laws. This would not be the first time that the Congress excludes a territory from said legislation. In 1936, the Congress excluded the Virgin Islands to stimulate the economy of said territory. See American Maritime Association vs. Blumenthal, 590 F. 2d 1156, 1166–69 (D.C. Cir. 1978). Be it

"*Resolved by the Legislature of Puerto Rico:*

"SECTION 1. The Legislature of the Commonwealth of Puerto Rico requests the Congress of the United States of America that by virtue of its full power to legislate over Puerto Rico under the Territorial Clause of the Federal Constitution, to amend the coasting trade laws to exclude Puerto Rico from the scope of application of said laws. Specifically, it is herein proposed:

"a. that the text of Title 46, Section 293 of the United States Code, in effect be amended to eliminate all reference to Puerto Rico and to integrate the current text of Section 293(a) of that same Title 46, to read as follows: 'The seacoasts and navigable rivers of the United States shall be divided into five great districts; the first to include all the collection districts on the seacoasts and navigable rivers between the northern boundary

of the State of Maine and the southern boundary of the State of Texas; the second to include all the collection districts on the Great Lakes, their connecting and tributary waters, as far east as the Raquette River, New York; the third to include the collection districts on the seacoasts and navigable rivers between the southern boundary of the State of California and the northern boundary of the State of Washington; the fourth to consist of the State of Alaska; the fifth to consist of the State of Hawaii';

"b. that the present Section 293(a) of Title 46 of the United States Code be repealed;

"c. that the text of the Federal Merchant Marine Act of 1920, Section 21, 41 Stat. 997, 46 U.S.C. 877, in effect, be amended to add the following text: '. . .: and provided further, that the coasting laws of the laws of the United States shall not extend to the Commonwealth of Puerto Rico.'

"d. that Section 9 of the federal Act entitled 'An Act to temporarily provide revenues and a civil government of Puerto Rico, and for other purposes,' of April 12, 1900, Ch. 191, 31 Stat. 79, at present codified as 48 U.S.C. 744, be repealed.

"SECTION 2. A certified copy of this Concurrent Resolution shall be remitted to the members of the Senate and the House of Representatives and to the President of the United States of America, by the Secretaries of both bodies of the Legislature.

"SECTION 3. This Concurrent Resolution shall take effect immediately after its approval."

POM-533. A joint resolution adopted by the Legislature of the State of California; to the Committee on Energy and Natural Resources.

"ASSEMBLY JOINT RESOLUTION NO. 30

"Whereas, the San Francisco Bay/Sacramento-San Joaquin Delta Estuary (The Delta) is nationally recognized as both an important feature of the state's environmental and an important component of the state's water supply system; and

"Whereas, the Delta is the single most important source of water for the people, farms, and businesses of this state, providing the water supply for more than two-thirds of all Californians; and

"Whereas, the Delta is home to many aquatic species, including several endangered species; and

"Whereas, it is imperative to maintain the water quality of the Delta; and

"Whereas, it is the policy and the law of the state to protect and use wisely vita natural resources such as the Delta; and

"Whereas, the state has signed a historic accord with the federal government and important state agricultural, urban, and environmental water interests that calls for the development of a comprehensive solution for the environmental, water supply reliability, and water quality problems of the Delta; and

"Whereas, the state, the federal government, and important stakeholder interests have initiated a program known as CAL-FED to develop comprehensive and long-term solutions to the problems of the Delta; and

"Whereas, the CAL-FED program recognizes the need to expand participation to include all impacted parties and the interested public and has established a number of efforts including the Bay Delta Advisory Commission and monthly public workshops to do so; and

"Whereas, the success of the CAL-FED program is vital to the environmental and economic well-being of the state; now, therefore, be it

"*Resolved by the Assembly and Senate of the State of California, jointly*, That the Legislature of the State of California memorializes the President of the United States and the Governor of California to commit to the CAL-FED program the necessary support to ensure the program's success in achieving a comprehensive solution to the problems in the Delta; and be it further

"*Resolved*, That the Legislature of the State of California encourages the people and entities involved in the CAL-FED program to coordinate the development of policies that will lead to comprehensive, economically viable and environmentally compatible solutions for the Delta and which may include proposed changes to state and federal law in support of those solutions; and be it further

"*Resolved*, That the Legislature of the State of California requests the manager of the CAL-FED program to submit to the Legislature a semiannual report on January 1 and July 1 of each year, regarding the progress CAL-FED has made towards achieving comprehensive and long-term solutions to the problems of the Delta; and be it further

"*Resolved*, That the Chief Clerk of the Assembly transmit copies of this resolution to the President of the United States, to each Senator and Representative from California in the Congress of the United States, and to the Governor."

POM-534. A resolution adopted by the Senate of the Legislature of the State of Alaska; to the Committee on Energy and Natural Resources.

"SENATE RESOLVE NO. 5

"Whereas the Alaska National Interest Lands Conservation Act (ANILCA), P.L. 96-487, was intended by its framers to fully settle the status of all federal land in Alaska and therefore provide much needed stability for the benefit of all businesses and citizens of the State of Alaska; and

"Whereas two areas of extreme importance to Alaska in ANILCA were

"(1) Title XI, which provided a mechanism to gain a right of access across Conservation System Units that were created as part of ANILCA; and

"(2) Secs. 101d and 1326b of ANILCA which prohibited the creation of new Conservation System Units in Alaska; and

"Whereas Title XI of ANILCA was specifically included to provide assured, reasonable, and timely access across the patchwork of federal Conservation System Units in Alaska but has been administered by the federal government in such a manner as to amount to no more than useless rhetoric; and

"Whereas secs. 101d and 1326b of ANILCA were included to assure no further land withdrawals from multiple use from the federal land base in Alaska, but these provisions have also been ignored by the federal government since the passage of ANILCA; and

"Whereas these two areas of extreme importance have been ignored by the federal government with the end result negatively affecting citizens and businesses in Alaska; and

"Whereas Alaska has the ability to request land exchanges under secs. 103b and 1302h of ANILCA of land now known to contain high resource values that have been arbitrarily withdrawn from multiple use of ANILCA; be it

"*Resolved*, That the Alaska State Senate respectfully requests that the federal government live up to the true intent of the Alaska National Interest Lands Conservation Act in all issues of access, and creation of additional Conservation System Units, and fully support exchanges of high resource value land with Alaska to enable Alaska to establish greater economic and infrastructure opportunities for the people of the state."

POM-535. A joint resolution adopted by the Legislature of the State of Alaska; to the Committee on Energy and Natural Resources.

"LEGISLATIVE RESOLVE NO. 7

"Whereas the founding fathers of this nation recognized that land is power and that a centralized federal government with a substantial land base would eventually overwhelm the states and pose a threat to the freedom of the individual; and

"Whereas the original 13 colonies and the next five states admitted to the Union were granted fee title to all land within their borders; and

"Whereas all but two states admitted to the Union since 1802 were denied the same rights of land ownership granted the states admitted earlier; and

"Whereas art. I, sec. 8, of the Constitution of the United States of America makes no provision for land ownership by the federal government, other than by purchase from the states of land '. . . for the erection of forts, magazines, arsenals, dock-yards, and other needful buildings'; and

"Whereas acting contrary to the provisions of art. I, sec. 8, of the Constitution of the United States, the federal government withheld property from the states admitted since 1802, making them land poor and unable to determine their own land use and development policies; and

"Whereas this action has made those states admitted since 1802 unequal to other states and subject to unwarranted federal control; and

"Whereas restoration of property to which they are historically and constitutionally entitled would empower the land poor states to determine their own land use policies; be it

"*Resolved*, That the Alaska State Legislature urges the 104th Congress of the United States to right the wrong and to transfer to the states, by fee title, any federally controlled property currently held within the states admitted to the Union since 1802; and be it further

"*Resolved*, That the Congress is urged to then purchase from the newly empowered States land needed to meet the provision of art. I, sec. 8, United States Constitution."

POM-536. A joint resolution adopted by the Legislature of the State of California; to the Committee on Energy and Natural Resources.

"ASSEMBLY JOINT RESOLUTION NO. 35

"Whereas, more than 50 years have elapsed since the Imperial Navy of Japan launched its surprise attack on the United States Naval Installation at Pearl Harbor, Hawaii; and

"Whereas, in the early morning of Sunday, December 7, 1941, the forces of the Imperial Navy of Japan under the command of Vice Admiral Chuichi Nagumo attacked the installations of the United States Pacific Fleet at Pearl Harbor, Hawaii; and

"Whereas, the Japanese forces were formidable, and consisted of 6 aircraft carriers, 2 battleships, 2 heavy cruisers, 11 destroyers, 360 aircraft, and various other vessels; and

"Whereas, during the 2-hour attack by the Japanese 2,330 United States military personnel were killed and 1,145 were wounded, and 100 civilians were killed or wounded; and

"Whereas, the United States Pacific Fleet in Pearl Harbor that morning included 94 Navy ships most of which were moored for the weekend; and

"Whereas, of the 94 ships, 70 were combat vessels, and 24 were auxiliary vessels; and

"Whereas, during the attack by the Japanese all 8 of the battleships in the harbor were hit, 5 were sunk, and one was severely damaged, several cruisers were damaged, 2 destroyers were sunk, and 9 other ships were sunk or severely damaged; and

"Whereas, of the 300 United States Army and Navy airplanes on Oahu that morning, the Japanese destroyed 140 and damaged 80, most of which were attacked on the ground, and the attack heavily damaged 6 Oahu air bases; and

"Whereas, the 3 Pacific Fleet aircraft carriers stationed at Pearl Harbor were fortunately not in the harbor at the time of the attack and thus escaped damage; and

"Whereas, that attack was a severe blow to the Pacific defenses of the United States and brought the United States into World War II as an active participant and marked the commencement of what was to become the greatest series of naval engagements in history, first to halt the expansion of the Japanese Imperial Forces, then to rout them from their entrenched positions; and

"Whereas, although a Pearl Harbor Memorial was erected above the sunken Battleship U.S.S. Arizona in Pearl Harbor, it is fitting and appropriate that an additional memorial be constructed in Washington, D.C. memorializing the great sacrifice made by those Americans who perished at the hands of the Japanese in that surprise attack; now, therefore, be it

Resolved by the Assembly and the Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to take every action necessary to ensure the construction, dedication, and maintenance of a Pearl Harbor Memorial in a suitable place of honor in Washington, D.C.; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the United States House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. STEVENS, from the Committee on Governmental Affairs, with an amendment:

S. 699. A bill to amend the Ethics in Government Act of 1978, to extend the authorization of appropriations for the Office of Government Ethics for seven years, and for other purposes (Rept. No. 104–244).

By Mr. STEVENS, from the Committee on Governmental Affairs, with an amendment in the nature of a substitute:

S. 1224. A bill to amend subchapter IV of chapter 5 of title 5, United States Code, relating to alternative means of dispute resolution in the administrative process, and for other purposes (Rept. No. 104–245).

By Mr. HELMS, from the Committee on Foreign Relations, without amendment and with a preamble:

S. Con. Res. 42. A concurrent resolution concerning the emancipation of the Iranian Baha'i community.

By Mr. SPECTER, from the Select Committee on Intelligence:

Special Report entitled "Capability of the United States to Monitor Compliance with the Start II Treaty" (Rept. No. 104–246).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. D'AMATO, from the Committee on Banking, Housing, and Urban Affairs:

Gaston L. Gianni, Jr., of Virginia, to be Inspector General, Federal Deposit Insurance Corporation. (New Position.)

Stuart E. Eizenstat, of Maryland, to be Under Secretary of Commerce for International Trade.

Alan Greenspan, of New York, to be Chairman of the Board of Governors of the Federal Reserve System for a term of 4 years. (Reappointment.)

Laurence H. Meyer, of Missouri, to be a Member of the Board of Governors of the Federal Reserve System for the unexpired term of 14 years from 2/1/88.

Alice M. Rivlin, of Pennsylvania, to be a Vice Chairman of the Board of Governors of the Federal Reserve System for a term of 4 years.

Alice M. Rivlin, of Pennsylvania, to be a Member of the Board of Governors of the Federal Reserve System for a term of 14 years from February 1, 1996.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. HELMS, from the Committee on Foreign Relations:

Lawrence Neal Benedict, of California, a Career Member of the Senior Foreign Service, Class of Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Cape Verde.

Alfred C. DeCotiis, of New Jersey, to be a Representative of the United States of America to the fiftieth Session of the General Assembly of the United Nations.

Ernest G. Green, of the District of Columbia, to be a Member of the Board of Directors of the African Development Foundation for a term expiring September 22, 2001, (Reappointment.)

Aubrey Hooks, of Virginia, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of the Congo.

Robert Krueger, of Texas, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Botswana.

Henry McKoy, of North Carolina, to be a Member of the Board of Directors of the African Development Foundation for a term expiring February 9, 2002, vice William H.G. Fitzgerald, term expired.

The following-named Career Member of the Senior Foreign Service, Class of Career Minister, for the personal rank of Career Ambassador in recognition of especially distinguished service over a sustained period: J. Stapleton Roy, of Pennsylvania.

Lottie Lee Shackelford, of Arkansas, to be a Member of the Board of Directors of the Overseas Private Investment Corporation for a term expiring December 17, 1998, (Reappointment.)

David H. Shinn, of Washington, a Career Member of the Senior Foreign Service, Class of Minister-counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Ethiopia.

Harold Walter Geisel, of Illinois, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Mauritius and to serve concurrently and without additional compensation as Ambassador Extraordinary and Plenipotentiary of the United States of America to the Federal and Islamic Republic of The Comoros.

Mr. HELMS. Mr. President, for the Committee on Foreign Relations, I also report favorably two nomination lists in the Foreign Service which were printed in full in prior the CONGRESSIONAL RECORDS of March 6 and March 18, 1996, and ask unanimous consent, to save the expense of reprinting on the Executive Calendar, that these nominations lie at the Secretary's desk for the information of Senators.

The following-named Career Members of the Senior Foreign Service of the Department of Agriculture for promotion in the Senior Foreign Service to the classes indicated:

Career Members of the Senior Foreign Service of the United States of America, Class of Minister-Counselor:

Suzanne K. Hale, of Virginia.

Frank J. Piason, of New Jersey.

The following-named Career Members of the Foreign Service of the Department of Agriculture for promotion into the Senior Foreign Service to the class indicated:

Career Members of the Senior Foreign Service of the United States of America, Class of Counselor:

Lloyd J. Fleck, of Tennessee.

James D. Grueff, of Maryland.

Thomas A. Hamby, of Tennessee.

Peter O. Kurz, of Maryland.

Kenneth J. Roberts, of Minnesota.

Robert J. Wicks, of Virginia.

The following-named persons of the agencies indicated for appointment as Foreign Service officers of the classes stated, and also for the other appointments indicated herewith:

For appointment as Foreign Service Officers of Class One, Consular Officers and Secretaries in the Diplomatic Service of the United States of America.

DEPARTMENT OF STATE

Alfred Thomas Clark, of California.

For appointment as Foreign Service Officers of Class Two, Consular Officers and Secretaries in the Diplomatic Service of the United States of America:

AGENCY FOR INTERNATIONAL DEVELOPMENT

Mahlon Atkinson Barash, of Virginia.

Donald Allen Drga, of Texas.

Richard Jay Gold, of Virginia.

DEPARTMENT OF STATE

Barbara S. Aycock, of the District of Columbia.

Dana M. Weant, of Washington.

For appointment as Foreign Service Officers of Class Three, Consular Officers and Secretaries in the Diplomatic Service of the United States of America:

AGENCY FOR INTERNATIONAL DEVELOPMENT

Christine Adamczyk, of Michigan.

Syed A. Ali, of Florida.

Todd Hanson Amani, of Maryland.

R. Douglass Arbuckle, of Florida.
David Chapmann Atteberry, of Texas.
E. Jed Barton, of Nevada.
Barbara L. Belding, of California.
Scott H. Bellows, of South Carolina.
Aleksandra Elizabeth Braginski, of the District of Columbia.
Robert F. Cunnane, of Washington.
Thomas R. Delaney, of Pennsylvania.
Thomas A. Egan, of Washington.
Branden W. Enroth, of Delaware.
Theodore Victor Gehr, of Oregon.
Lawrence Hardy II, of Washington.
Laura Anne Kearns, of Georgia.
Carol Bruce Kiranbay, of Virginia.
Charles G. Knight, of Virginia.
Charles Eric North, of Maryland.
Patricia O'Connor, of California.
Beth S. Paige, of Texas.
Andrew William Plitt, of Texas.
Mark M. Powdermaker, of Washington.
Alan I. Reed, of Washington.
William Earl Reynolds, of Montana.
Scott M. Taylor, of California.
Jill Jacqueline Thompson, of Texas.

DEPARTMENT OF AGRICULTURE

Margaret M. Bauer, of Virginia.
Michael L. Conlon, of Michigan.
Catherine M. Sloop, of Washington.
Margaret E. Thursland, of Virginia.
Dennis B. Voboril, of Kansas.
David J. Williams, of West Virginia.

DEPARTMENT OF STATE

Kevin Blackstone, of New York.

For appointment as Foreign Service Officers of Class Four, Consular Officers and Secretaries in the Diplomatic Service of the United States of America:

DEPARTMENT OF AGRICULTURE

Joani M. Dong, of California.
Hoa V. Huynh, of Oregon.
Emiko M. Purdy, of Pennsylvania.

DEPARTMENT OF STATE

Julie Deidra Adams, of Maryland.
Antoinette Rose Boecker, of Texas.
Scott Douglas Boswell, of New Jersey.
William W. Christopher, of California.
John Charles Coe, of Florida.
Mariko Dieterich, of Texas.
Mary Doetsch, of California.
Pamela Dunham, of Oregon.
Lara Suzanne Friedman, of Arizona.
Paul F. Fritch, Jr., of Wyoming.
Peter G. Hancon, of Illinois.
John David Haynes, of Colorado.
Michael G. Heath, of California.
Camille Diane Hill, of California.
Andrew P. Hogenboom, of New York.
Sherri Ann Holliday, of Kansas.
Randall Warren Houston, of California.
Bruce K. Hudspeth, of Virginia.
Lisa Anne Johnson, of Virginia.
Michael Robert Keller, of Florida.
Patricia Kathleen Keller, of Virginia.
George P. Kent, of Virginia.
Philip G. Laidlaw, of Florida.
Sherrie L. Marafino, of Pennsylvania.
Raymond D. Maxwell, of North Carolina.
Kathleen A. Morenski, of Virginia.
Andrew Leonard Morrison, of Arkansas.
Jonathan Edward Mudge, of California.
Tulinabo Salama Mushingi, of Virginia.
David Reimer, of Virginia.
Madeline Quinn Seidenstricker, of Florida.
Ellen Barbara Thorburn, of Michigan.
Hale Colburn VanKoughnett, of Texas.
Wendy Fleming Wheeler, of Washington.
William Randall Wisell, of Vermont.
Diane Elizabeth Wood, of Washington.

UNITED STATES INFORMATION AGENCY

Angela Delphinita Williams, of California.

The following-named Members of the Foreign Service of the Departments of Agriculture, Commerce and State to be Consular Officers and/or Secretaries in the Diplomatic Service of the United States of America, as indicated:

Consular Officers and Secretaries in the Diplomatic Service of the United States of America:

Daniel K. Acton, of Virginia.
Mea Arnold, of Virginia.
Vaughn Frederick Bishop, of Virginia.
John P. Booher, of Virginia
Lea Ann Booher, of Virginia.
J. Alex Boston, of Maryland.
Brett J. Brenneke, of Illinois.
John G. Buchanan III, of Virginia.
Paul David Burkhead, of North Carolina.
Richard K. Choate, of Virginia.
Bart D. Cobbs, of Arkansas.
Michele Ondako Connell, of Ohio.
Carolyn Creatore, of Delaware.
Julie Sadtler Davis, of Georgia.
Paul Grady Degler, of Texas.
Cecelia Darlene Dyson, of Virginia.
Craig E. Farmer, of Virginia.
Alexander G. Feliu, of Virginia.
John H. Fort, of Virginia.
Ellen Jacqueline Germain, of New York.
Gary J. Glueckert, of Virginia.
Jacques LeRoy Gude, of Virginia.
Ceresa L. Haney, of Virginia.
Todd C. Holmstrom, of Michigan.
William M. Howe, of Alaska.
Bryan David Hunt, of Virginia.
Kim DeCoux Invergo, of Virginia.
Henry Victor Jardine, of Virginia.
Amer Kayani, of California.
Lucille L. Kirk, of the District of Columbia.
David Allan Katz, of California.
Joseph R. Kuzel, of Virginia.
Mitchell G. Larsen, of Illinois.
Raymond R. Lau, of Virginia.
Mary E. Lenze-Acton, of Virginia.
Louis F. Licht III, of Maryland.
Sharon E. Little, of Virginia.
James L. Loi, of Connecticut.
Gwen Lyle, of Texas.
Valarie Lynn, of Colorado.
Jackson A. MacFarlane, of Virginia.
Joseph A. Malpeli, of Virginia.
Ileana M. Martinez, of Pennsylvania.
Luis E. Matos, of Virginia.
Manuel P. Micaller, Jr., of California.
Katherine Elizabeth Monahan, of California.
Carrie L. Newton, of Virginia.
Geoffrey Peter Nyhart, of Florida.
John Raymond O'Donnell, of Virginia.
Pamela I. Penfold, of Virginia.
Daniel W. Peters, of Illinois.
Julia M. Rauner-Guerrero, of Virginia.
Jacqueline Reid, of Virginia.
Harvy Peter Reiner, of California.
Miguel Angel Rodriquez, of Maryland.
Julio Ryan Royal, of Virginia.
Stephen D. Sack, of Virginia.
Karen Marie Schaefer, of Virginia.
James Steven Schneider, of Virginia.
Lori A. Shoemaker, of Tennessee.
Zora Valerie Shuck, of Virginia.
Michele Marie Siders, of the District of Columbia.
Robert J. Swaney, of Virginia.
Marilyn J. Taylor, of Texas.
W. Garth Thornburn II, of Virginia.
Shawn Kristen Thorne, of Texas.
Bryn W. Tippman, of California.
Michael Carl Trulson, of California.
Jane S. Upshaw, of Virginia.
Graham Webster, of Florida.
Keresa M. Webster, of Virginia.
Bruce C. Wilson, of California.
Andrea L. Winans, of Virginia.
Kevin L. Winstead, of Virginia.
David Jonathan Wolff, of Florida.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. THURMOND, from the Committee on Armed Services:

*Joseph J. DiNunno, of Maryland, to be a Member of the Defense Nuclear Facilities Safety Board for a term expiring October 18, 2000.

*Franklin D. Kramer, of the District of Columbia, to be an Assistant Secretary of Defense.

*Kenneth H. Bacon, of the District of Columbia, to be an Assistant Secretary of Defense.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

Mr. THURMOND. Mr. President, for the Committee on Armed Services, I report favorably the attached listing of nominations.

Those identified with a single asterisk (*) are to be placed on the Executive Calendar. Those identified with a double asterisk (**) are to lie on the Secretary's desk for the information of any Senator since these names have already appeared in the CONGRESSIONAL RECORD of November 7, 1995, February 20 and 26, March 5, 6, 11, 14, and 18, 1996, and ask unanimous consent, to save the expense of reprinting on the Executive Calendar, that these nominations lie at the Secretary's desk for the information of Senators.

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

(The nominations ordered to lie on the Secretary's desk were printed in the RECORDS of November 7, 1995, February 20 and 26, March 5, 6, 11, 14, and 18, 1996, at the end of the Senate proceedings.)

*Col. William Welser III, USAF to be brigadier general. (Reference No. 642.)

**In the Navy there is 1 appointment to the grade of lieutenant (John M. Cooney). (Reference No. 715.)

*In the Air Force there is 1 promotion to the grade of brigadier general (Timothy J. McMahon). (Reference No. 803–2.)

*Maj. General Kenneth E. Eickmann, USAF to be lieutenant general. (Reference No. 886.)

**In the Army Reserve there is 1 promotion to the grade of colonel (Gary N. Johnston). (Reference No. 913.)

**In the Army Reserve there are 32 promotions to the grade of colonel and below (list begins with Pat W. Simpson) (Reference No. 914.)

**In the Army there are 67 promotions to the grade of major (list begins with Margaret B. Baines). (Reference No. 915.)

**In the Army Reserve there are 28 promotions to the grade of colonel and below (list begins with Anthony C. Crescenzi). (Reference No. 916.)

**In the Navy there is 1 promotion to the grade of commander (Rex A. Auker). (Reference No. 917.)

**In the Navy and Naval Reserve there are 21 appointments to the grade of commander and below (list begins with Richard D. Boyer). (Reference No. 918.)

**In the Air Force Reserve there are 16 promotions to the grade of lieutenant colonel (list begins with Harold E. Burcham). (Reference No. 923.)

**In the Army Reserve there are 1,367 promotions to the grade of lieutenant colonel (list begins with Patrick V. Adamcik). (Reference No. 924.)

*Maj. Gen. Richard T. Swope, USAF to be lieutenant general. (Reference No. 925.)

**Lt. Gen. John G. Coburn, USA for reappointment to the grade of lieutenant general. (Reference No. 927.)

**In the Air Force there are 9 promotions to the grade of lieutenant colonel and below (list begins with Douglas W. Anderson). (Reference No. 929.)

**In the Navy there are 220 appointments to the grade of captain and below (list begins with Mark A. Admiral). (Reference No. 930.)

**In the Air Force Reserve there are 41 promotions to the grade of lieutenant colonel (list begins with Robert J. Abell). (Reference No. 939.)

**In the Navy there are 607 appointments to the grade of captain and below (list begins with Michael P. Cavil). (Reference No. 940.)

*Maj. Gen. John J. Cusick, USA to be lieutenant general. (Reference No. 948.)

**In the Navy there are 283 appointments to the grade of lieutenant (list begins with James L. Abram). (Reference No. 950.)

Total: 2,700.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. DOMENICI (for himself, Mr. FORD, Mr. DOLE, Mr. LOTT, Mr. HEFLIN, Mr. SHELBY, Mr. FAIRCLOTH, Mr. SIMPSON, Mr. COCHRAN, Mr. INHOFE, Mr. WARNER, Mr. HELMS, Mr. MCCONNELL, Mr. THURMOND, Mr. BURNS, Mr. JOHNSTON, Mr. BINGAMAN, Mr. NICKLES, Mr. LUGAR, Mrs. KASSEBAUM, Mr. COATS, and Mr. GRAMS):

S. 1646. A bill to authorize and facilitate a program to enhance safety, training, research and development, and safety education in the propane gas industry for the benefit of propane consumers and the public, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. PRESSLER (for himself, Mr. CRAIG, Mr. LOTT, Mr. BENNETT, Mr. SIMPSON, Mr. STEVENS, Mr. MURKOWSKI, Mr. INHOFE, Mr. KYL, and Mr. THOMAS):

S. 1647. A bill to amend the Federal Land Policy and Management Act of 1976 to provide that forest management activities shall be subject to initial judicial review only in the United States district court for the district in which the affected land is located, and for other purposes; to the Committee on Energy and Natural Resources.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Ms. SNOWE:

S. Res. 233. A resolution to recognize and support the efforts of the United States Soccer Federation to bring the 1999 Women's World Cup tournament to the United States; to the Committee on Commerce, Science, and Transportation.

By Mr. DASCHLE (for himself, Mr. DOLE, Mr. COHEN, and Ms. SNOWE):

S. Res. 234. A resolution relative to the death of Edmund S. Muskie; considered and agreed to.

By Mr. THURMOND:

S. Res. 235. A resolution to proclaim the week of June 16 to June 22, 1996, as "National Roller Coaster Week"; considered and agreed to.

By Mr. LUGAR:

S. Con. Res. 49. A concurrent resolution providing for certain corrections to be made in the enrollment of the bill (H.R. 2854) to modify the operation of certain agricultural programs; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DOMENICI (for himself, Mr. FORD, Mr. DOLE, Mr. LOTT, Mr. HEFLIN, Mr. SHELBY, Mr. FAIRCLOTH, Mr. SIMPSON, Mr. COCHRAN, Mr. INHOFE, Mr. WARNER, Mr. HELMS, Mr. MCCONNELL, Mr. THURMOND, Mr. BURNS, Mr. JOHNSTON, Mr. BINGAMAN, Mr. NICKLES, Mr. LUGAR, Mrs. KASSEBAUM, Mr. COATS, and Mr. GRAMS):

S. 1646. A bill to authorize and facilitate a program to enhance safety, training; research and development, and safety education in the propane gas industry for the benefit of propane consumers and the public, and for other purposes; to the Committee on Energy and Natural Resources.

THE PROPANE EDUCATION AND RESEARCH ACT OF 1996

• Mr. DOMENICI. Mr. President, today I am very happy to introduce the Propane Education and Research Act of 1996. Propane is an extremely important source of clean-burning, domestically-produced energy in the United States providing fuel for cooking, heating, and hot water in over 7.7 million homes, half of all farms, and in millions of recreational applications. Even though propane is the fourth most used fuel in America, no Federal funds are spent on propane research. My legislation keeps it that way and simply provides a mechanism that permits, not requires, industry to fund its own research and development [R&D] program for propane.

This act would allow the propane industry, composed of over 165 producers and 5,000 marketers, to vote to establish a checkoff program to fund much needed R&D modeled after the many checkoff programs already established in Federal law. Collected from the industry at an initial rate of 1/10th of 1 cent per gallon of odorized—propane destined for the retail market—propane sold, these funds would support R&D, educational, and safety activities. Propane producers and marketers, who would bear the cost of the checkoff programs, have indicated broad support for the legislation.

Propane has traditionally served rural and suburban citizens who are beyond reach of most natural gas lines. The propane industry consists of mostly small businesses that individually cannot afford the necessary R&D, safety, and educational activities that result in enormous benefits to consumers. Some of these benefits include increased efficiency in propane appliances, safer handling and distribution, and an improved environment for Americans from this clean-burning fuel. Small businesses have not historically received direct benefits from federally sponsored energy R&D. This legislation does not fit the traditional heavy-handed approach to energy research and development, but gives the propane small business community the flexibility and the framework to pursue research, safety, and education on their own.

There are similar programs in energy industries, however, such as the Gas Research Institute, the Electric Power Research Institute, the Texas Railroad Commission propane checkoff, and similar State programs in Louisiana, Missouri, and Alabama. These programs have enjoyed considerable success, for example, the Gas Research Institute boasts a 400-percent return for each dollar collected and invested. Their work primarily benefits urban and suburban natural gas consumers, the propane legislation will benefit rural and suburban consumers, as well as urban and suburban propane consumers.

The agricultural industry, for example, which accounts for 7 to 8 percent of all propane consumed in the United States, will see substantial benefits from propane research and development. With even marginal increases in equipment efficiency, the agricultural propane users will reap large returns. More efficient uses of propane in other businesses, such as home construction, will further increase the value of the return on investment.

The legislation I am introducing will not actually establish the propane checkoff, but calls upon the propane industry to hold a referendum among themselves, to authorize establishment of the checkoff before it can go into effect. If the industry, propane producers, and retail marketers, vote to establish the checkoff, then the Propane Education and Research Council consisting of industry representatives, will be formed to administer the program. The legislation also looks down the road and allows the industry to terminate the program by a majority vote of both classes, or by two-thirds majority of a single class.

A companion bill, H.R. 1514, was introduced in the House of Representatives and currently enjoys broad bipartisan support. This enthusiasm underscores the wide, regional appeal of this

innovative approach to meeting our domestic energy research needs. Moreover, my bill foster industry's efforts toward efficient, clean fuels that benefit consumers and producers alike without Federal dollars and with minimal governmental involvement.

I encourage my colleagues to join me in cosponsoring this important legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1646

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Propane Education and Research Act of 1996".

SEC. 2. FINDINGS.

Congress finds that—

(1) propane gas (also known as liquefied petroleum gas) is an essential energy commodity that provides heat, hot water, cooking fuel, and motor fuel, and has many other uses to millions of Americans;

(2) the use of propane is especially important to rural citizens and farmers, offering an efficient and economical source of gas energy;

(3) propane has been recognized as a clean fuel and can contribute in many ways to reducing pollution in cities and towns of the United States; and

(4) propane is primarily domestically produced, and the use of propane provides energy security and jobs for Americans.

SEC. 3. DEFINITIONS.

In this Act:

(1) COUNCIL.—The term "Council" means a Propane Education and Research Council established under section 4.

(2) INDUSTRY.—The term "industry" means persons involved in the United States in—

(A) the production, transportation, and sale of propane; and

(B) the manufacture and distribution of propane utilization equipment.

(3) INDUSTRY TRADE ASSOCIATION.—The term "industry trade association" means an organization exempt from tax, under paragraph 3 or 6 of section 501(c) of the Internal Revenue Code of 1986, that represents the propane industry.

(4) ODORIZED PROPANE.—The term "odorized propane" means propane that has had odorant added to it.

(5) PRODUCER.—The term "producer" means the owner of propane at the time at which the propane is recovered at a gas processing plant or refinery.

(6) PROPANE.—The term "propane"—

(A) means a hydrocarbon, the chemical composition of which is predominantly C^3H^8, whether recovered from natural gas or from crude oil; and

(B) includes liquefied petroleum gas or a mixture of liquefied petroleum gases.

(7) PUBLIC MEMBER.—The term "public member" means a member of the Council, other than a representative of producers or retail marketers, representing significant users of propane, public safety officials, academia, the propane research community, or other groups knowledgeable about propane.

(8) QUALIFIED INDUSTRY ORGANIZATION.—The term "qualified industry organization" means the National Propane Gas Association, the Gas Processors Association, a successor of the National Propane Gas Association or the Gas Processors Association, or a group of retail producers or marketers that collectively represent at least 25 percent of the volume of propane produced or sold, respectively, in the United States.

(9) RETAIL MARKETER.—The term "retail marketer" means a person engaged primarily in the sale of odorized propane to ultimate consumers or to retail propane dispensers.

(10) RETAIL PROPANE DISPENSER.—The term "retail propane dispenser" means a person that sells, but is not engaged primarily in the business of selling odorized propane to ultimate consumers.

(11) SECRETARY.—The term "Secretary" means the Secretary of Energy.

SEC. 4. REFERENDA.

(a) CREATION OF PROGRAM.—

(1) IN GENERAL.—The qualified industry organizations may conduct a referendum among producers and retail marketers for the creation of a Propane Education and Research Council.

(2) EXPENSES.—A referendum under paragraph (1) shall be conducted at the expense of the qualified industry organizations.

(3) REIMBURSEMENT.—The Council, if established, shall reimburse the qualified industry organizations for the cost of the referendum accounting and documentation.

(4) INDEPENDENT AUDITING FIRM.—The referendum shall be conducted by an independent auditing firm agreed to by the qualified industry organizations.

(5) VOTING RIGHTS.—Voting rights in the referendum shall be based on the volume of propane produced or odorized propane sold in the calendar year previous to the year in which the referendum is conducted, or other representative period agreed to by the qualified industry organizations.

(6) CERTIFICATION OF VOLUME OF PROPANE.—All persons voting in the referendum shall certify to the independent auditing firm the volume of propane the person represents.

(7) APPROVAL.—On the approval of persons representing ⅔ of the total volume of propane voted in the retail marketer class and ⅔ of all propane voted in the producer class, the Council shall be established.

(b) TERMINATION OR SUSPENSION.—

(1) REFERENDUM.—On the Council's initiative, or on petition to the Council by producers and retail marketers representing 35 percent of the volume of propane produced and sold, respectively, in the United States, the Council shall conduct a referendum to determine whether the industry favors termination or suspension of the Council.

(2) EXPENSE.—A referendum under paragraph (1) shall be conducted at the expense of the Council.

(3) INDEPENDENT AUDITING FIRM.—The referendum shall be conducted by an independent auditing firm selected by the Council.

(4) TERMINATION OR SUSPENSION.—Termination or suspension shall take effect if approved by—

(A) persons representing more than ½ of the total volume of odorized propane in the producer class and more than ½ of the total volume of propane in the retail marketer class; or

(B) persons representing more than ⅔ of the total volume of propane in produced or sold in the United States.

SEC. 5. PROPANE EDUCATION AND RESEARCH COUNCIL.

(a) SELECTION OF MEMBERS.—

(1) SELECTION BY QUALIFIED INDUSTRY ORGANIZATIONS.—The qualified industry organizations shall select all retail marketer, public, and producer members of the Council.

(2) ALLOCATION.—The producer organizations shall select the producer members of the Council, the retail marketer organizations shall select retail marketer members, and all qualified industry organizations shall select the public members.

(3) VACANCIES.—Vacancies in unfinished terms of Council members shall be filled in the same manner as original appointments.

(b) REPRESENTATION.—In selecting members of the Council, the qualified industry organizations shall give due regard to selecting a Council that is representative of the industry, including representation of—

(1) gas processors and oil refiners among producers;

(2) interstate and intrastate operators among retail marketers;

(3) large and small companies among producers and retail marketers, including agricultural cooperatives; and

(4) all geographic regions of the country.

(c) MEMBERSHIP.—

(1) IN GENERAL.—The Council shall consist of 21 members, including—

(A) 9 members representing retail marketers;

(B) 9 members representing producers; and

(C) 3 public members.

(2) QUALIFICATIONS.—Each Council member representing retail marketers or producers shall be a full-time employee or owner of a business in the industry that the member represents or a representative of an agricultural cooperative.

(3) DISQUALIFICATION.—No employee of a qualified industry organization or other industry trade association shall serve as a member of the Council, and no member of the Council may serve concurrently as an officer of the board of directors of a qualified industry organization or other industry trade association.

(4) LIMITED COMPANY REPRESENTATION.—Not more than 1 person from any company (or affiliate of the company) may serve on the Council at any given time.

(d) COMPENSATION.—

(1) IN GENERAL.—Subject to paragraph (2), Council members shall receive no compensation for services performed or reimbursement for expenses relating to services performed.

(2) EXCEPTION FOR PUBLIC MEMBERS.—A public member may, on request, be reimbursed for reasonable expenses directly related to participation by the member in Council meetings.

(e) TERMS.—

(1) LENGTH OF TERMS.—A Council member shall serve a term of 3 years.

(2) NUMBER OF TERMS.—A Council member may not serve more than 2 full consecutive terms.

(3) MAXIMUM CONSECUTIVE YEARS.—A member filling an unexpired term may serve not more than 7 consecutive years.

(4) RETURN OF FORMER MEMBERS.—A former member of the Council may return to the Council only if the member has not been a member for a period of 2 years.

(5) INITIAL APPOINTMENTS.—Initial appointments to the Council shall be for terms of 1, 2, and 3 years, and shall be staggered to provide for the selection of 7 members each year.

(f) FUNCTIONS.—

(1) IN GENERAL.—The Council shall develop programs and projects and enter into contracts or agreements for implementing this Act, including programs to—

(A) enhance consumer and employee safety and training;

(B) provide for research and development of clean and efficient propane utilization equipment;

(C) inform and educate the public about safety and other issues associated with the use of propane; and

(D) provide for the payment of the costs of implementing subparagraphs (A) through (C) with funds collected under this Act.

(2) COORDINATION.—The Council shall coordinate activities with industry trade associations and others as appropriate to provide efficient delivery of services and to avoid unnecessary duplication of activities.

(g) USE OF FUNDS.—

(1) UNITED STATES AGRICULTURE INDUSTRY.—Not less than 5 percent of the funds collected through assessments under this Act shall be used for programs and projects intended to benefit the agriculture industry in the United States.

(2) COORDINATION.—The Council shall coordinate the use of funds under paragraph (1) with agriculture industry trade associations and other organizations representing the agriculture industry.

(3) USE OF PROPANE AS AN OVER-THE-ROAD MOTOR FUEL.—The percentage of funds collected through assessments under this Act to be used in any year for projects relating to the use of propane as an over-the-road motor fuel shall not exceed the percentage of the total market for odorized propane that is used as an over-the-road motor fuel, based on an historical average of the use of propane as an over-the-road motor fuel during the 3-year period preceding the year in which the funds are used.

(h) PRIORITIES.—Issues related to research and development, safety, education, and training shall be given priority by the Council in the development of programs and projects.

(i) ADMINISTRATION.—

(1) CHAIRMAN.—The Council shall select a Chairman from among the members of the Council.

(2) OFFICERS.—The Council shall select from among the members of the Council such officers as the Council considers necessary.

(3) COMMITTEES.—The Council may establish committees and subcommittees of the Council.

(4) RULES AND BYLAWS.—The Council shall adopt rules and bylaws for the conduct of business and the implementation of this Act.

(5) INDUSTRY COMMENT AND RECOMMENDATIONS.—The Council shall establish procedures for the solicitation of industry comment and recommendations on any significant plan, program, or project to be funded by the Council.

(6) ADVISORY COMMITTEES.—The Council may establish advisory committees of persons other than Council members.

(j) ADMINISTRATIVE EXPENSES.—

(1) LIMITATION ON EXPENSES.—The administrative expenses of operating the Council (not including costs incurred in the collection of the assessment under section 6) plus amounts paid under paragraph (2) shall not exceed 10 percent of the funds collected by the Council in any fiscal year.

(2) REIMBURSEMENT.—The Council shall annually reimburse the Secretary for costs incurred by the United States relating to the Council.

(3) LIMITATION ON REIMBURSEMENT.—A reimbursement under paragraph (2) for any fiscal year shall not exceed the amount that the Secretary determines is the average annual salary of employees of the Department of Energy.

(k) BUDGET.—

(1) REVIEW AND COMMENT.—Prior to August 1 of each year, the Council shall publish for public review and comment a budget plan for the next calendar year, including the probable costs of all programs, projects, and contracts and a recommended rate of assessment sufficient to cover the costs.

(2) SUBMISSION.—Following review and comment under paragraph (1), the Council shall submit the proposed budget to the Secretary and to Congress.

(3) RECOMMENDATIONS BY SECRETARY.—The Secretary may recommend any program or activity that the Secretary considers appropriate.

(l) RECORDS.—

(1) IN GENERAL.—The Council shall keep minutes, books, and records that clearly reflect all of the actions of the Council.

(2) PUBLIC AVAILABILITY.—The Council shall make the minutes, books, and records available to the public.

(3) AUDIT.—The Council shall have the books audited by a certified public accountant at least once each fiscal year and at such other times as the Council may determine.

(4) COPIES.—Copies of an audit under paragraph (3) shall be provided to all members of the Council, all qualified industry organizations, and any other member of the industry on request.

(5) NOTICE.—The Council shall provide the Secretary with notice of meetings.

(6) ADDITIONAL REPORTS.—The Secretary may require the Council to provide reports on the activities of the Council and on compliance, violations, and complaints regarding the implementation of this Act.

(m) PUBLIC ACCESS TO COUNCIL PROCEEDINGS.—

(1) IN GENERAL.—All meetings of the Council shall be open to the public.

(2) NOTICE.—The Council shall provide the public at least 30 days' notice of Council meetings.

(3) MINUTES.—The minutes of all meetings of the Council shall be made readily available to the public.

(n) ANNUAL REPORT.—

(1) IN GENERAL.—Each year the Council shall prepare and make publicly available a report that includes an identification and description of all programs and projects undertaken by the Council during the previous year and those planned for the upcoming year.

(2) RESOURCES.—The report shall detail the allocation and planned allocation of Council resources for each program and project.

SEC. 6. ASSESSMENTS.

(a) IN GENERAL.—The Council may levy an assessment on odorized propane in accordance with this section.

(b) AMOUNT.—

(1) INITIAL ASSESSMENT.—The Council shall set the initial assessment at no greater than 1/10 cent per gallon of odorized propane sold and placed into commerce.

(2) SUBSEQUENT ASSESSMENTS.—Subsequent to the initial assessment, annual assessments shall be sufficient to cover the costs of the plans and programs developed by the Council.

(3) ASSESSMENT MAXIMUM.—An assessment shall not be greater than ½ cent per gallon of odorized propane, unless approved by a majority of those voting in a referendum in the producer class and the retail marketer class.

(4) MAXIMUM INCREASE.—An assessment may not be raised by more than 1/10 cent per gallon of odorized propane annually.

(5) OWNERSHIP.—The owner of odorized propane at the time of odorization, or at the time of import of odorized propane, shall make the assessment based on the volume of odorized propane sold and placed into commerce.

(6) DUE DATE.—Assessments shall be payable to the Council on a monthly basis not later than the 25th of the month following the month of in which the assessment is made.

(7) EXPORTED PROPANE.—Propane exported from the United States is not subject to the assessment.

(8) LATE FEE.—The Council may establish a late payment charge and rate of interest to be imposed on a person that fails to remit or pay to the Council any amount due under this Act.

(c) ALTERNATIVE COLLECTION RULES.—The Council may establish an alternative means of collecting the assessment if the Council determines that the alternative means is more efficient and effective.

(d) INVESTMENT OF FUNDS.—Pending disbursement pursuant to a program, plan, or project, the Council may invest funds collected through assessments, and any other funds received by the Council, only in—

(1) obligations of the United States or an agency of the United States;

(2) general obligations of a State or political subdivision of a State;

(3) an interest-bearing account or certificate of deposit of a bank that is a member of the Federal Reserve System; or

(4) obligations fully guaranteed as to principal and interest by the United States.

(e) STATE PROGRAMS.—

(1) IN GENERAL.—The Council shall establish a program coordinating the operation of the Council with the programs of any State propane education and research council created by State law, or any similar entity.

(2) COORDINATION.—The coordination shall include a joint or coordinated assessment collection process, a reduced assessment, or an assessment rebate.

(3) REDUCED ASSESSMENT OR REBATE.—A reduced assessment or rebate shall be 20 percent of the regular assessment collected in a State under this section.

(4) PAYMENT OF ASSESSMENT REBATES.—An assessment rebate may be paid only to—

(A) a State propane education and research council created by State law or regulation that meets requirements established by the Council for specific programs approved by the Council; or

(B) a similar entity, such as a foundation established by the retail propane gas industry in a State that meets requirements established by the Council for specific programs approved by the Council.

SEC. 7. COMPLIANCE.

(a) IN GENERAL.—The Council may bring a civil action in a United States district court to compel compliance with an assessment levied by the Council under this Act.

(b) COSTS.—A successful action for compliance under this section may require payment by the defendant of the costs incurred by the Council in bringing the compliance action.

SEC. 8. LOBBYING RESTRICTIONS.

No funds collected by the Council shall be used in any manner to influence legislation or an election, but the Council may recommend to the Secretary changes in this Act or other statutes that would further the purposes of this Act.

SEC. 9. MARKET SURVEY AND CONSUMER PROTECTION.

(a) PRICE ANALYSIS.—

(1) IN GENERAL.—Not later than 2 years after establishment of the Council and annually thereafter, the Secretary of Commerce,

using only data provided by the Energy Information Administration and other public sources, shall prepare and make available to the Council, the Secretary, and the public an analysis of changes in the price of propane relative to other energy sources.

(2) METHODOLOGY.—

(A) IN GENERAL.—The propane price analysis shall compare indexed changes in the price of consumer grade propane to a composite of indexed changes in the price of residential electricity, residential natural gas, and refiner price to end-users of number 2 fuel oil on an annual national average basis.

(B) ROLLING AVERAGE PRICE.—For purposes of indexing changes in consumer grade propane, residential electricity, residential natural gas, and end-user number 2 fuel oil prices, the Secretary of Commerce shall use a 5-year rolling average price beginning with the year 4 years prior to the establishment of the Council.

(b) AUTHORITY TO RESTRICT ACTIVITIES.—

(1) IN GENERAL.—If in any year the 5-year average rolling price index of consumer grade propane exceeds the 5-year rolling average price composite index of residential electricity, residential natural gas, and refiner price to end-users of number 2 fuel oil in an amount greater than 10.1 percent, the activities of the Council shall be restricted to research and development, training, and safety matters.

(2) NOTIFICATION.—The Council shall inform Congress and the Secretary of Energy of any restriction of activities under this subsection.

(3) REANALYSIS.—On the expiration of each 180-day period beginning on the date on which activities are restricted under paragraph (1), the Secretary of Commerce shall conduct a new propane price analysis described in subsection (a).

(4) END OF RESTRICTION.—Activities of the Council shall continue to be restricted under this subsection until the percentage described in paragraph (1) is 10.1 percent or less.

SEC. 10. PRICING.

Notwithstanding any other provision of this Act, the price of propane shall be determined by market forces. The Council shall take no action, and no provision of this Act shall establish an agreement to, pass along to consumers the cost of the assessment provided for in section 6.

SEC. 11. RELATION TO OTHER PROGRAMS.

Nothing in this Act shall preempt or supersede any other program relating to propane education and research organized and operated under the laws of the United States or any State.

SEC. 12. REPORTS.

(a) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, and not less than once every 2 years thereafter, the Secretary of Commerce shall prepare and submit to Congress and the Secretary a report examining whether operation of the Council, in conjunction with the cumulative effects of market changes and Federal programs, has had an effect on propane consumers, including residential, agriculture, process, and nonfuel users of propane.

(b) CONSIDERATION BY THE SECRETARY OF COMMERCE.—The Secretary of Commerce shall—

(1) consider and, to the extent practicable, include in the report submissions by propane consumers;

(2) consider whether there have been long-term and short-term effects on propane prices as a result of Council activities and Federal programs; and

(3) consider whether there have been changes in the proportion of propane demand attributable to various market segments.

(c) RECOMMENDATIONS.—To the extent that the report demonstrates that there has been an adverse effect on propane prices, the Secretary of Commerce shall include recommendations for reversing or mitigating the effect.

(d) FREQUENT REPORTS.—On petition by an affected party or on request by the Secretary of Energy, the Secretary of Commerce may prepare and submit the report required by this section at less than 2-year intervals.●

By Mr. PRESSLER (for himself, Mr. CRAIG, Mr. LOTT, Mr. BENNETT, Mr. SIMPSON, Mr. STEVENS, Mr. MURKOWSKI, Mr. INHOFE, Mr. KYL, and Mr. THOMAS):

S. 1647. A bill to amend the Federal Land Policy and Management Act of 1976 to provide that forest management activities shall be subject to initial judicial review only in the United States district court for the district in which the affected land is located, and for other purposes; to the Committee on the Judiciary.

THE FEDERAL LAND AND POLICY MANAGEMENT ACT OF 1976 AMENDMENT ACT OF 1996

Mr. PRESSLER. Mr. President, today I am introducing legislation to bring some common sense to the judicial review of land management activities. In 1995, every single proposed timber sale in the Black Hills National Forest was challenged by extreme environmental groups. Was this necessary? No. My legislation would prevent environmental activists from "court shopping" when they challenge Federal timber sales and other land management activities. Is this necessary? Yes.

The Black Hills National Forest in western South Dakota, famous for its enormous stands of ponderosa pine, is an essential part of South Dakota's economy. The Black Hills forest products industry includes 18 sawmills and 12 secondary manufacturers producing a full spectrum of lumber products, from housing quality lumber to particleboard and wood pellets. The list is endless. The industry sustains nearly 2,000 jobs. Preserving these South Dakota jobs and the future health of the forest requires careful management—both by the Forest Service and by the timber industry.

Mayor Drue Vitter, of Hill City, SD, said it best:

> Good management of the forest by the Forest Service helps sustain a good cut for the timber industry. If we groom the forest well and keep it healthy, then we will have a healthy economy.

Mr. President, the very first Federal timber sale in the Nation took place in the Black Hills near Nemo, SD, in 1899. That same area has been harvested twice since then. Today, a new generation of healthy ponderosa pine stands tall and strong—a testament to the proper stewardship of our national forests.

Recently, however, proper forest management has been hindered by lengthy court challenges of Forest Service timber sales. Environmental extremists challenge almost every proposed Federal timber sale—not just in South Dakota but across the country.

In the past 10 years, the number of Federal timber sales has decreased dramatically. In 1990, the Forest Service issued nine timber sale decisions in the Black Hills National Forest. In 1994, the Forest Service issued only four timber sale decisions on the Black Hills.

Why the decline? Mainly it is due to the never-ending court challenges. These reductions threaten the health of the forest, cause sawmills to go out of business, and cause loggers and other workers to lose their jobs. This is bad for the forests. This is worse for South Dakotans.

Angie Many, founder of the Black Hills Women in Timber organization, described the situation in a poignant letter to the editor of the Rapid City Journal newspaper. "When less timber is harvested, the dangers of losing major portions of the Black Hills National Forest to wildlife or insect infestations are increased . . . local mills shut down or decrease shifts, disemploying real people with effects that trickle down to many other businesses . . . families like mine are torn apart as loggers and mill workers travel to other areas to find work . . ." Sadly, Angie's description is accurate.

Often, when environmental extremists contest a Federal timber sale, they shop around for courts that will be most sympathetic to their environmental concerns and where they can get the longest delays. They seek court action in metropolitan areas—courts that frequently are busier and tend to be more liberal. Is this fair to loggers? Of course not.

Court-shopping is a sad fact of life right now in South Dakota. Here's an example: Two years ago, the Forest Service prepared the so-called Needles timber sale—a sale 6.77 million board feet in the Norbeck Wildlife Reserve. The Needles sale was aimed at thinning the stands of ponderosa pine which had become so dense from lack of management that wildlife no longer could survive there.

This presented the Forest Service with an opportunity—an opportunity to achieve a balanced approach to forest management. By thinning the forest, the Forest Service intends to create new habitat areas that would encourage the return of wildlife to the area. That's good sense—a plan that would result in both economic and environmental benefits.

The Needles sale also was needed to ensure the long-term health of the forest within the Norbeck Wildlife Preserve. The Preserve is deteriorating rapidly and poses a severe fire risk. A

fire in this area would be devastating. It could destroy the forest and could cause permanent damage to the faces of the Mount Rushmore National Monument which lies within the Norbeck Wildlife Preserve. The Needles timber sale would reduce drastically the risk of fire and insect destruction.

Like almost every Federal timber sale in the Black Hills, the Needles timber sale was challenged almost immediately by a coalition of environmental extremists. For the past 2 years, this case has been pending in the Denver court system—with no hope of receiving any further attention. This just is not right.

As many of my colleagues know, the Denver court system is currently one of the busiest in the Nation. The Needles timber sale is not a high priority for this court, particularly now that the Oklahoma bombing trial has been moved to Denver. But, this is what environmental extremists want. They wanted a delay. They got a delay. My bill would put an end to that.

My legislation would require that Federal land management activities—including timber sales—be subject to initial judicial review only in the U.S. District Court in which the affected Federal lands are located. Under my bill, the Needles timber sale could have been heard in South Dakota—where there is no caseload logjam, so to speak.

That means no more court shopping. No more court backlog. No unnecessary delays. No lost timber revenue. And most important, no lost jobs. A court in South Dakota will understand the needs of South Dakota's forest and rangelands better than a remote big city, Federal court with a clear liberal bias.

Maurice Williams, the General Manager of Continental Lumber in Hill City, SD, agrees that South Dakotans are best equipped to determine how to manage the Black Hills:

> The proof is on the ground. The Black Hills National Forest represents more than a hundred years of solid management. A judge who never has seen the Black Hills just isn't qualified to decide how the forest should or should not be managed.

Mr. President, I agree with Maurice. I believe it is time to give States and conscientious timber harvesters the home court advantage. Already this legislation has been cosponsored by several of my colleagues, including Senators CRAIG, LOTT, BENNETT, SIMPSON, STEVENS, MURKOWSKI, INHOFE, KYL and THOMAS. I ask unanimous consent that a letter of support from the Black Hills Forest Resource Association be printed in the RECORD. I hope all my colleagues will take a close look at this bill and support its eventual passage.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1647

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. JUDICIAL REVIEW OF FOREST MANAGEMENT ACTIVITIES.

(a) IN GENERAL.—Title VII of the Federal Land Policy and Management Act of 1976 (Public Law 94–579; 43 U.S.C. 1701 et seq.) is amended—

(1) in the title heading, by adding: "; JUDICIAL REVIEW" at the end; and

(2) by adding at the end the following:

"SEC. 708. JUDICIAL REVIEW OF FOREST MANAGEMENT ACTIVITIES.

"(a) DEFINITION OF FOREST MANAGEMENT ACTIVITY.—In this section, the term 'forest management activity' means a sale of timber, the issuance of a grazing permit or grazing lease, or any other activity authorized under a land use plan under this Act or a land or resource management plan under section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1604) to be carried out on Federal land.

"(b) JUDICIAL REVIEW.—A forest management activity and land use plan under this Act or a land or resource management plan under section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1604) (including an amendment to or revision of a plan) shall be subject to initial judicial review only in the United States district court for the district in which the affected land is located.".

(b) CONFORMING AMENDMENT.—The table of contents of the Federal Land Policy and Management Act of 1976 (43 U.S.C. prec. 1701) is amended—

(1) in the heading relating to title VII, by adding "; JUDICIAL REVIEW" at the end; and

(2) by adding at the end the following:

"Sec. 708. Judicial review of forest management activities.".

BLACK HILLS FOREST RESOURCE ASSOCIATION,
Rapid City, SD, March 14, 1996.

Hon. LARRY PRESSLER,
U.S. Senate,
Washington, DC.

DEAR SENATOR PRESSLER: We have reviewed your draft legislation requiring that lawsuits involving forest management activities be filed in the United States district court in which the national forest is located.

We strongly support this legislation. Too often plaintiffs have "shopped" for courts that are backlogged or for the judges most inclined to offer favorable judgments. In our view, the public's interest is best served by keeping trials as local as possible to facilitate appearances by witnesses, other participants, and observers, as well as providing the best opportunity for local citizens to be fully informed.

Clearly, local decisions should be made locally, and the public's interest is not well served by allowing cases to be heard in far away courts with only a tangential stake in the outcome.

Thank you for your leadership on this issue.

TOM TROXEL,
Director.

Mr. LOTT. Mr. President, it gives me great pleasure to join Senator PRESSLER, my friend and colleague, as one of the original cosponsors for his timber sale proposal. This responsible legislative solution would cut court cost and remove delays which plague legitimate efforts to harvest timber from Federal lands.

Those who oppose any and all timber activities go to great lengths to obstruct the process. Frequently, they shop around for a court which supports their agenda. This usually creates a situation where the court making the ruling has neither a geographical connection nor a genuine first-hand understanding of the case and its consequences. Does this make judicial sense to any of my Senate colleagues?

Senator PRESSLER'S proposal is direct and straightforward. It simply requires that the court which conducts the judicial review and renders the decision must include the land in question within its district. Why is a Denver court more qualified to review a Black Hills timber sales than one in South Dakota? Common sense says the opposite would be true.

Senator PRESSLER'S approach will not prevent groups from challenging the timber sales on Federal lands. This proposal will not roll back any environmental statutes. To the contrary, it actually means the judicial decisions will be made more promptly. Why would any of these groups not want their court challenges acted upon promptly?

Senator PRESSLER'S plan also would cover other public policy issues like grazing permits and resource management plans. It makes sense that these judicial decisions, like timber sales, are made by those who will be directly affected, and who have the most knowledge of the situations.

Senator PRESSLER'S approach can be characterized as a focused and precise fix to the underlying statues. It is in keeping with the administration's "rifle-shot" procedure. The fundamental law is left in place and mere fine tuning occurs.

I ask all of my colleagues to give serious examination to this legislative proposal. It has merit and deserves both your support and your cosponsorship.

ADDITIONAL COSPONSORS

S. 287

At the request of Mrs. HUTCHISON, the name of the Senator from Iowa [Mr. HARKIN] was added as a cosponsor of S. 287, a bill to amend the Internal Revenue Code of 1986 to allow homemakers to get a full IRA deduction.

S. 953

At the request of Mr. CHAFEE, the names of the Senator from Massachusetts [Mr. KERRY], the Senator from Minnesota [Mr. WELLSTONE], and the Senator from New Hampshire [Mr. SMITH] were added as cosponsors of S. 953, a bill to require the Secretary of

the Treasury to mint coins in commemoration of black revolutionary war patriots.

S. 969

At the request of Mr. BRADLEY, the name of the Senator from California [Mrs. FEINSTEIN] was added as a cosponsor of S. 969, a bill to require that health plans provide coverage for a minimum hospital stay for a mother and child following the birth of the child, and for other purposes.

S. 1039

At the request of Mr. ABRAHAM, the name of the Senator from Arizona [Mr. MCCAIN] was added as a cosponsor of S. 1039, a bill to require Congress to specify the source of authority under the United States Constitution for the enactment of laws, and for other purposes.

S. 1183

At the request of Mr. HATFIELD, the name of the Senator from Wisconsin [Mr. FEINGOLD] was added as a cosponsor of S. 1183, a bill to amend the act of March 3, 1931—known as the Davis-Bacon Act, to revise the standards for coverage under the act, and for other purposes.

S. 1189

At the request of Mr. DEWINE, the name of the Senator from Louisiana [Mr. JOHNSTON] was added as a cosponsor of S. 1189, a bill to provide procedures for claims for compassionate payments with regard to individuals with blood-clotting disorders, such as hemophilia, who contracted human immunodeficiency virus due to contaminated blood products.

S. 1245

At the request of Mr. ASHCROFT, the name of the Senator from Alabama [Mr. SHELBY] was added as a cosponsor of S. 1245, a bill to amend the Juvenile Justice and Delinquency Prevention Act of 1974 to identify violent and hardcore juvenile offenders and treat them as adults, and for other purposes.

S. 1397

At the request of Mr. KYL, the name of the Senator from Kentucky [Mr. MCCONNELL] was added as a cosponsor of S. 1397, a bill to provide for State control over fair housing matters, and for other purposes.

S. 1512

At the request of Mr. LUGAR, the name of the Senator from Oklahoma [Mr. NICKLES] was added as a cosponsor of S. 1512, a bill to amend title 23, United States Code, to improve safety at public railway-highway crossings, and for other purposes.

S. 1610

At the request of Mr. BOND, the name of the Senator from Colorado [Mr. BROWN] was added as a cosponsor of S. 1610, a bill to amend the Internal Revenue Code of 1986 to clarify the standards used for determining whether individuals are not employees.

S. 1612

At the request of Mr. HELMS, the name of the Senator from Alaska [Mr. STEVENS] was added as a cosponsor of S. 1612, a bill to provide for increased mandatory minimum sentences for criminals possessing firearms, and for other purposes.

S. 1613

At the request of Mr. COCHRAN, the names of the Senator from Iowa [Mr. GRASSLEY] and the Senator from South Dakota [Mr. PRESSLER] were added as cosponsors of S. 1613, a bill to amend the National School Lunch Act to provide greater flexibility to schools to meet the Dietary Guidelines for Americans under the school lunch and school breakfast programs, and for other purposes.

SENATE RESOLUTION 85

At the request of Mr. CHAFEE, the names of the Senator from Minnesota [Mr. GRAMS] and the Senator from Colorado [Mr. CAMPBELL] were added as cosponsors of Senate Resolution 85, a resolution to express the sense of the Senate that obstetrician-gynecologists should be included in Federal laws relating to the provision of health care.

SENATE RESOLUTION 152

At the request of Mr. ABRAHAM, the name of the Senator from Arizona [Mr. MCCAIN] was added as a cosponsor of Senate Resolution 152, a resolution to amend the Standing Rules of the Senate to require a clause in each bill and resolution to specify the constitutional authority of the Congress for enactment, and for other purposes.

SENATE CONCURRENT RESOLUTION 49—RELATIVE TO THE BILL (H.R. 2854) TO MODIFY THE OPERATION OF CERTAIN AGRICULTURE PROGRAMS

Mr. LUGAR submitted the following concurrent resolution; which was considered and agreed to:

S. CON. RES. 49

Resolved by the Senate (the House of Representatives concurring), That the Clerk of the House of Representatives, in the enrollment of the bill (H.R. 2854) to modify the operation of certain agricultural programs, shall make the following corrections:

In section 215—

(1) in paragraph (1), insert "and" at the end;

(2) in paragraph (2), strike "; and" at the end and insert a period; and

(3) strike paragraph (3).

SENATE RESOLUTION 233—RELATIVE TO THE 1999 WOMEN'S WORLD CUP TOURNAMENT

Ms. SNOWE submitted the following resolution; which was referred to the Committee on Commerce, Science, and Transportation:

S. RES. 233

Whereas soccer is one of the world's most popular sports;

Whereas the Women's World Cup tournament is the single most important women's soccer event;

Whereas the 1995 Women's World Cup tournament was broadcast to millions of fans in 67 nations;

Whereas the United States Soccer Federation is attempting to bring the 1999 Women's World Cup tournament to the United States;

Whereas the United States is capable of meeting all of the requirements of a host country, including financing, transportation, security, communication, and physical accommodations;

Whereas the United States successfully hosted the 1994 Men's World Cup tournament in nine cities throughout the Nation; and

Whereas the 1999 Women's World Cup tournament will contribute to national and international goodwill because the tournament will bring people from many nations together in friendly competition; Now, therefore, be it

Resolved, That the Senate—

(1) recognizes and supports the efforts of the United States Soccer Federation to bring the 1999 Women's World Cup tournament to the United States; and

(2) requests that the President of the United States designate appropriate Federal agencies to work with the United States Soccer Federation to meet the Federation Internationale de Football Association's requirements for the 1999 Women's World Cup tournament host country.

Ms. SNOWE. Mr. President, I rise today to submit a resolution supporting the efforts of the U.S. Soccer Federation to bring the 1999 Women's World Cup tournament to the United States.

Soccer is one of the world's most beloved sports, and its popularity in the United States has grown rapidly over the past 20 years. The Women's World Cup tournament, held every 4 years, is the single most important women's soccer event; the 1995 Women's World Cup was broadcast to millions of fans in 67 nations. Hosting this event will contribute to international goodwill and be a clear signal that America is serious about encouraging female participation in sports. Indeed, this tournament would serve as a showcase of the best female soccer athletes in the world, and something to which girls and young women could aspire.

Already, girls' soccer has experienced an explosion in popularity. On the high school level, it is reported that 41,119 girls played soccer in 1980, while 191,350 played in the 1994–95 school year. That's a remarkable increase of over 400 percent.

This increase is reflected on the collegiate level as well. In 1981, 77 schools sponsored women's soccer. By 1995, that number had swelled to 617. And a recent national survey indicates that of all the Americans who played soccer at least once during 1994, 39 percent percent were women.

These are very encouraging numbers. They demonstrate that soccer is a very appealing sport to women, and they demonstrate that soccer is an excellent way to get girls and women excited about participating in sports.

We all know that sports are just as important an activity for girls and women as they are for boys and men. Through sports, girls and women can get a feel for the positive competitive spirit which was, until recently, almost exclusively the property of boys and men.

Women and girls who participate in sports develop self-confidence, dedication, a sense of team spirit, and an ability to work under pressure—traits which enhance all aspects of their lives. In fact, 80 percent of women identified as key leaders in Fortune 500 companies have sports backgrounds.

Having the United States host the Women's World Cup in 1999 would be an inspirational way to highlight the excitement of participation in sports, and the heights of greatness which women can reach in athletics. Indeed, it would give Americans the chance to see their own outstanding female soccer players in action. The U.S. National Team won the inaugural title in 1991, and finished third in last year's event before sold out crowds.

The success of the 1994 Men's World Cup Soccer tournament in the United States showed the world that we were ready to be the center of the soccer universe. Indeed, I think we all felt justifiable pride in providing the world with excellent venues as well as first-class transportation, security, communication, and accommodations.

In order for the U.S. Soccer Federation to submit a formal bid to the Federation Internationale de Football Association [FIFA] to host the Women's World Cup, it must show Government backing. In 1987, a similar resolution was agreed to demonstrate support for the U.S. bid to host the 1994 Men's World Cup. By agreeing to this resolution, we will officially recognize their efforts and request that the President of the United States designate appropriate Federal agencies to work with the U.S. Soccer Federation to meet FIFA's requirements for the 1999 tournament's host country.

I hope my colleagues will join me in supporting this worthwhile effort.

SENATE RESOLUTION 234—RELATIVE TO THE DEATH OF EDMUND S. MUSKIE

Mr. DASCHLE (for himself, Mr. DOLE, Mr. COHEN, and Ms. SNOWE) submitted the following resolution; which was considered and agreed to:

S. RES. 234

Whereas, the Senate fondly remembers former Secretary of State, former Governor of Maine, and former Senator from Maine, Edmund S. Muskie,

Whereas, Edmund S. Muskie spent six years in the Maine House of Representatives, becoming minority leader,

Whereas, in 1954, voters made Edmund S. Muskie the State's first Democratic Governor in 20 years,

Whereas, after a second two-year term, he went on in 1958 to become the first popularly elected Democratic Senator in Maine's history,

Whereas, Edmund S. Muskie in 1968, was chosen as Democratic Vice-Presidential nominee,

Whereas, Edmund S. Muskie left the Senate to become President Carter's Secretary of State,

Whereas, Edmund S. Muskie served with honor and distinction in each of these capacities: Now, therefore, be it

Resolved, That the Senate has heard with profound sorrow and deep regret the announcement of the death of the Honorable Edmund S. Muskie, formerly a Senator from the State of Maine.

Resolved, That the Secretary communicate these resolutions to the House of Representatives and transmit an enrolled copy thereof to the family of the deceased.

Resolved, That when the Senate adjourns today, it adjourn as a further mark of respect to the memory of the deceased Senator.

SENATE RESOLUTION 235—TO PROCLAIM "NATIONAL ROLLER COASTER WEEK"

Mr. THURMOND submitted the following resolution; which was considered and agreed to:

S. RES. 235

Whereas, the roller coaster is a unique form of fun, enjoyed by millions of Americans, as well as people all over the world;

Whereas, roller coasters have been providing fun since the 15th century;

Whereas, in 1885, an American named Phillip Hinckle invented a steam-powered chain lift to hoist coasters to new heights and new down-hill speeds;

Whereas, advances in technology and a renewed interest in leisure and recreation have meant a resurgence for roller coasters;

Whereas, engineers working with computers have been able to create the safest, most thrilling rides ever;

Whereas, there are an estimated 500 roller coasters worldwide, and more than fifty new projects underway in 1996;

Whereas, the world's oldest existing roller coaster, Leap-The-Dips, is located at Lakemont Park in Altoona, Pennsylvania, and is currently being restored;

Whereas, That the Senate proclaims the week of June 16 through June 22, 1996, as "National Roller Coaster Week".

AMENDMENTS SUBMITTED

THE PRESIDIO PROPERTIES ADMINISTRATION ACT OF 1996

McCAIN AMENDMENT NO. 3655

(Ordered to lie on the table.)

Mr. McCAIN submitted an amendment intended to be proposed by him to amendment No. 3564 proposed by Mr. MURKOWSKI to the bill (H.R. 1296) to provide for the administration of certain Presidio properties at minimal cost to the Federal taxpayer; as follows:

At the appropriate place in the amendment insert the following:

"Notwithstanding any other provision contained in any other Act, nothing in this act authorizing or requiring the Secretary of the Interior or the Secretary of Agriculture to acquire land shall be construed to take precedence or assume a higher priority over any other acquisitions undertaken by either the Secretary of the Interior or the Secretary of Agriculture."

THOMAS AMENDMENT NO. 3656

(Ordered to lie on the table.)

Mr. THOMAS submitted an amendment intended to be proposed by him to an amendment submitted by him to amendment No. 3564 proposed by Mr. MURKOWSKI to the bill H.R. 1296, supra; as follows:

On page 2, strike lines 20 through 23 and insert the following:

(2) ACCESS BY INSTITUTIONS OF HIGHER EDUCATION.—The State of Wyoming shall provide access to the property for institutions of higher education at a compensation level that is agreed to by the State and the institution of higher education.

(3) REVERSION.—If the property is used for a purpose not described in paragraph (1) or (2), all right, title, and interest in and to the property shall revert to the United States.

HATCH AMENDMENT NO. 3657

(Ordered to lie on the table.)

Mr. HATCH submitted an amendment intended to be proposed by him to amendment No. 3605 submitted by Mr. BRADLEY to amendment No. 3564 proposed by Mr. MURKOWSKI to the bill H.R. 1296, supra; as follows:

In lieu of the matter proposed insert the following:

On page 150, line 6, strike "necessary or" and insert "necessary and".

HATCH AMENDMENT NO. 3658

(Ordered to lie on the table.)

Mr. HATCH submitted an amendment intended to be proposed by him to amendment No. 3583 submitted by Mr. BUMPERS to amendment No. 3564 proposed by Mr. MURKOWSKI to the bill H.R. 1296, supra; as follows:

In lieu of the matter proposed insert the following:

(A) FINDING.—The Congress finds and directs that all public lands in the State of Utah administered by the Bureau of Land Management have been adequately studied for wilderness designation pursuant to sections 202 and 603 of the Federal Land Policy and Management Act of 1976 (U.S.C. 1712 and 1782).

(B) RELEASE.—Except as provided in subsection (c), any public land administered by the Bureau of Land Management in the State of Utah not designated wilderness by this Title are no longer subject to section 603(c) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1783(c)). Such lands shall be managed for the full range of uses as defined in section 103(c) of said Act (43 U.S.C. 1702(c)) and in accordance with land management plans adopted pursuant to section 202 of such Act (43 U.S.C. 1712).

(C) CONTINUING WILDERNESS STUDY AREAS STATUS.—The following wilderness study areas which are under study status by States adjacent to the State of Utah shall continue to be subject to sections 603(c) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1782 (c)):

(1) Bull Canyon; UT00800419/COoo1oooo1.

(2) Wrigley Mesa/Jones Canyon/Black Ridge Canyon West; UT00600116/117/CO00700113A.

(3) Squaw/Papoose Canyon; UT00600229/CO00300265.

(4) Cross Canyon; UT00600229/CO00300265.

HATCH AMENDMENT NO. 3659

(Ordered to lie on the table.)

Mr. HATCH submitted an amendment intended to be proposed by him to amendment No. 3587 submitted by Mr. FEINGOLD to amendment No. 3564 proposed by Mr. MURKOWSKI to the bill H.R. 1296, supra; as follows:

In lieu of the matter proposed insert the following:

(A) FINDING.—The Congress finds and directs that all public lands in the State of Utah administered by the Bureau of Land Management have been adequately studied for wilderness designation pursuant to sections 202 and 603 of the Federal Land Policy and Management Act of 1976 (U.S.C. 1712 and 1782).

(B) RELEASE.—Except as provided in subsection (c), any public land administered by the Bureau of Land Management in the State of Utah not designated wilderness by this Title are no longer subject to section 603(c) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1783(c)). Such lands shall be managed for the full range of uses as defined in section 103(c) of said Act (43 U.S.C. 1702(c)) and in accordance with land management plans adopted pursuant to section 202 of such Act (43 U.S.C. 1712).

(C) CONTINUING WILDERNESS STUDY AREAS STATUS.—The following wilderness study areas which are under study status by States adjacent to the State of Utah shall continue to be subject to sections 603(c) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1782 (c)):

(1) Bull Canyon; UT00800419/COoo1oooo1.

(2) Wrigley Mesa/Jones Canyon/Black Ridge Canyon West; UT00600116/117/CO00700113A.

(3) Squaw/Papoose Canyon; UT00600229/CO00300265.

(4) Cross Canyon; UT00600229/CO00300265.

HATCH AMENDMENT NO. 3660

(Ordered to lie on the table.)

Mr. HATCH submitted an amendment intended to be proposed by him to amendment No. 3647 submitted by Mr. BRADLEY to amendment No. 3564 proposed by Mr. MURKOWSKI to the bill H.R. 1296, supra; as follows:

In lieu of the matter proposed insert the following:

(A) FINDING.—The Congress finds and directs that all public lands in the State of Utah administered by the Bureau of Land Management have been adequately studied for wilderness designation pursuant to sections 202 and 603 of the Federal Land Policy and Management Act of 1976 (U.S.C. 1712 and 1782).

(B) RELEASE.—Except a provided in subsection (c), any public land administered by the Bureau of Land Management in the State of Utah not designated wilderness by this Title are no longer subject to section 603(c) of the Federal Land Policy and Management Act of 1976 (47 U.S.C. 1783(c)). Such land shall be managed for the full range of uses as defined in section 103(c) of said Act (43 U.S.C. 1702(c)) and in accordance with land management plans adopted pursuant to section 202 of such Act (43 U.S.C. 1712).

(C) CONTINUING WILDERNESS STUDY AREAS STATUS.—The following wilderness study areas which are under study status by States adjacent to the State of Utah shall continue to be subject to sections 603(c) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1782(c)):

(1) Bull Canyon: UT00800419/CO00100001.

(2) Wrigley Mesa/Jones Canyon/Black Ridge Canyon West: UT00600116/117/CO00700113A.

(3) Squaw/Papoose Canyon: UT00600229/CO00300265.

(4) Cross Canyon: UT00600229/CO00300265.

HATCH AMENDMENT NO. 3661

(Ordered to lie on the table.)

Mr. HATCH submitted an amendment intended to be proposed by him to amendment No. 3580 submitted by Mr. BUMPERS to amendment No. 3564 proposed by Mr. MURKOWSKI to the bill H.R. 1296, supra; as follows:

In lieu of the matter proposed insert the following:

(A) FINDING.—The Congress finds and directs that all public lands in the State of Utah administered by the Bureau of Land Management have been adequately studied for wilderness designation pursuant to sections 202 and 603 of the Federal Land Policy and Management Act of 1976 (U.S.C. 1712 and 1782).

(B) RELEASE.—Except a provided in subsection (c), any public land administered by the Bureau of Land Management in the State of Utah not designated wilderness by this Title are no longer subject to section 603(c) of the Federal Land Policy and Management Act of 1976 (47 U.S.C. 1783(c)). Such land shall be managed for the full range of uses as defined in section 103(c) of said Act (43 U.S.C. 1702(c)) and in accordance with land management plans adopted pursuant to section 202 of such Act (43 U.S.C. 1712).

HATCH AMENDMENT NO. 3662

(Ordered to lie on the table.)

Mr. HATCH submitted an amendment intended to be proposed by him to amendment No. 3591 submitted by Mr. BRADLEY to amendment No. 3564 proposed by Mr. MURKOWSKI to the bill H.R. 1296, supra; as follows:

In lieu of the matter proposed insert the following:

(a) FINDING.—The Congress finds and directs that all public lands in the State of Utah administered by the Bureau of Land Management have been adequately studied for wilderness designation pursuant to sections 202 and 603 of the Federal Land Policy and Management Act of 1976 (U.S.C. 1712 and 1782).

(b) RELEASE.—Except as provided in subsection (c), any public land administered by the Bureau of Land Management in the State of Utah not designated wilderness by this Title are no longer subject to section 603(c) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1783(c)). Such lands shall be managed for the full range of uses as defined in section 103(c) of said Act (43 U.S.C. 1702(c)) and in accordance with land management plans adopted pursuant to section 202 of such Act (43 U.S.C. 1712).

HATCH AMENDMENT NO. 3663

(Ordered to lie on the table.)

Mr. HATCH submitted an amendment intended to be proposed by him to amendment No. 3582 submitted by Mr. BUMPERS to amendment No. 3564 proposed by Mr. MURKOWSKI to the bill H.R. 1296, supra; as follows:

In lieu of the matter proposed insert the following:

On page 152, line 12, strike "Title," and insert the following thereafter: "title, so long as such activities have no increased significant adverse impacts on the resources and values of the wilderness areas than existed as of the date of the enactment of this title."

HATCH AMENDMENT NO. 3664

(Ordered to lie on the table.)

Mr. HATCH submitted an amendment intended to be proposed by him to amendment No. 3611 submitted by Mr. BRADLEY to amendment No. 3564 proposed by Mr. MURKOWSKI to the bill H.R. 1296, supra; as follows:

In lieu of the matter proposed insert the following:

"(3) *Provisions relating to Federal lands.*—(A) The enactment of this Act shall be construed as satisfying the provisions of section 206(a) of the Federal Land Policy and Management Act of 1976 requiring that exchanges of lands be in the public interest.

"(B) The transfer of lands and related activities required of the Secretary under this section shall not require an Environmental Impact Statement, and the Secretary shall not prepare such statement for the purposes of subsection 102(2)(c) of the National Environmental Policy Act of 1969.

"(C) The value of Federal lands transferred to the".

THE LEGISLATIVE LINE-ITEM VETO ACT OF 1996

BYRD AMENDMENT NO. 3665

Mr. BYRD proposed an amendment to the motion to recommit the conference report on the bill (S. 4) to grant the power of the President to reduce budget authority; as follows:

In lieu of the instructions insert the following: "with instructions to the managers on the part of the Senate to disagree to the conference substitute recommended by the committee of conference and insist on inserting the text of S. 14 as introduced in the Senate on January 4, 1995 (with certain exceptions) which is as follows:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Legislative Line Item Veto Act".

SEC. 2. EXPEDITED CONSIDERATION OF CERTAIN PROPOSED RESCISSIONS AND REPEALS OF TAX EXPENDITURES AND DIRECT SPENDING.

(a) IN GENERAL.—Title X of the Congressional Budget and Impoundment Control Act of 1974 (2 U.S.C. 621 et seq.) is amended by adding after section 1012 the following new section:

"EXPEDITED CONSIDERATION OF CERTAIN PROPOSED RESCISSIONS AND REPEALS OF TAX EXPENDITURES AND DIRECT SPENDING

"SEC. 1012A. (a) PROPOSED CANCELLATION OF BUDGET ITEM.—The President may propose, at the time and in the manner provided in subsection (b), the cancellation of any budget item provided in any Act.

"(b) TRANSMITTAL OF SPECIAL MESSAGE.—

"(1)(A) Subject to the time limitations provided in subparagraph (B), the President may transmit to Congress a special message proposing to cancel budget items and include with that special message a draft bill that, if enacted, would only cancel those budget items as provided in this section. The bill shall clearly identify each budget item that is proposed to be canceled including, where applicable, each program, project, or activity to which the budget item relates. The bill shall specify the amount, if any, of each budget item that the President designates for deficit reduction as provided in paragraph (4).

"(B) A special message may be transmitted under this section—

"(i) during the 20-calendar-day period (excluding Saturdays, Sundays, and legal holidays) commencing on the day after the date of enactment of the provision proposed to be rescinded or repealed; or

"(ii) at the same time as the President's budget.

"(2) In the case of an Act that includes budget items within the jurisdiction of more than one committee of a House, the President in proposing to cancel such budget item under this section shall send a separate special message and accompanying draft bill for each such committee.

"(3) Each special message shall specify, with respect to the budget item proposed to be canceled—

"(A) the amount that the President proposes be canceled;

"(B) any account, department, or establishment of the Government to which such budget item is available for obligation, and the specific project or governmental functions involved;

"(C) the reasons why the budget item should be canceled;

"(D) to the maximum extent practicable, the estimated fiscal, economic, and budgetary effect (including the effect on outlays and receipts in each fiscal year) of the proposed cancellation; and

"(E) all facts, circumstances, and considerations relating to or bearing upon the proposed cancellation and the decision to effect the proposed cancellation, and to the maximum extent practicable, the estimated effect of the proposed cancellation upon the objects, purposes, and programs for which the budget item is provided.

"(4)(A) Not later than 5 days after the date of enactment of a bill containing an amount designated by the President for deficit reduction under paragraph (1), the President shall—

"(i) with respect to a rescission bill, reduce the discretionary spending limits under section 601 of the Congressional Budget Act of 1974 for the budget year and each outyear to reflect such amount; and

"(ii) with respect to a repeal of a tax expenditure or direct spending, adjust the balances for the budget year and each outyear under section 252(b) of the Balanced Budget and Emergency Deficit Control Act of 1985 to reflect such amount.

"(B) Not later than 5 days after the date of enactment of a bill containing an amount designated by the President for deficit reduction under paragraph (1), the chairs of the Committees on the Budget of the Senate and the House of Representatives shall revise levels under section 311(a) and adjust the committee allocations under section 602(a) to reflect such amount.

"(c) PROCEDURES FOR EXPEDITED CONSIDERATION.—

"(1)(A) Before the close of the second day of session of the Senate and the House of Representatives, respectively, after the date of receipt of a special message transmitted to Congress under subsection (b), the majority leader or minority leader of each House shall introduce (by request) the draft bill accompanying that special message. If the bill is not introduced as provided in the preceding sentence in either House, then, on the third day of session of that House after the date of receipt of that special message, any Member of that House may introduce the bill.

"(B) The bill shall be referred to the appropriate committee or (in the House of Representatives) committees. The committee shall report the bill without substantive revision and with or without recommendation. The committee shall report the bill not later than the seventh day of session of that House after the date of receipt of that special message. If the committee fails to report the bill within that period, the committee shall be automatically discharged from consideration of the bill, and the bill shall be placed on the appropriate calendar.

"(C) A vote on final passage of the bill shall be taken in the Senate and the House of Representatives on or before the close of the 10th day of session of that House after the date of the introduction of the bill in that House. If the bill is passed, the Clerk of the Senate or the House of Representatives, as the case may be, shall cause the bill to be engrossed, certified, and transmitted to the other House within one calendar day of the day on which the bill is passed.

"(2)(A) During consideration under this subsection in the House of Representatives, any Member of the House of Representatives may move to strike any proposed cancellation of a budget item.

"(B) A motion in the House of Representatives to proceed to the consideration of a bill under this subsection shall be highly privileged and not debatable. An amendment to the motion shall not be in order, nor shall it be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

"(C) Debate in the House of Representatives on a bill under this subsection shall not exceed 4 hours, which shall be divided equally between those favoring and those opposing the bill. A motion further to limit debate shall not be debatable. It shall not be in order to move to recommit a bill under this subsection or to move to reconsider the vote by which the bill is agreed to or disagreed to.

"(D) Appeals from decisions of the Chair relating to the application of the Rules of the House of Representatives to the procedure relating to a bill under this section shall be decided without debate.

"(E) Except to the extent specifically provided in this section, consideration of a bill under this section shall be governed by the Rules of the House of Representatives. It shall not be in order in the House of Representatives to consider any rescission bill introduced pursuant to the provisions of this section under a suspension of the rules or under a special rule.

"(3)(A) During consideration of a bill under this subsection in the Senate, any Member of the Senate may move to strike any proposed cancellation of a budget item.

"(B) It shall not be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

"(C) Debate in the Senate on a bill under this subsection, and all debatable motions and appeals in connection therewith (including debate pursuant to subparagraph (D)), shall not exceed 10 hours. The time shall be equally divided between, and controlled by, the majority leader and the minority leader or their designees.

"(D) Debate in the Senate on any debatable motion or appeal in connection with a bill under this subsection shall be limited to not more than 1 hour, to be equally divided between, and controlled by, the mover and the manager of the bill, except that in the event the manager of the bill is in favor of any such motion or appeal, the time in opposition thereto, shall be controlled by the minority leader or his designee. Such leaders, or either of them, may, from time under their control on the passage of a bill, allot additional time to any Senator during the consideration of any debatable motion or appeal.

"(E) A motion in the Senate to further limit debate on a bill under this subsection is not debatable. A motion to recommit a bill under this subsection is not in order.

"(F) If the Senate proceeds to consider a bill introduced in the House of Representatives under paragraph (1)(A), then any Senator may offer as an amendment the text of the companion bill introduced in the Senate under paragraph (1)(A) as amended if amended (under subparagraph (A)). Debate in the Senate on such bill introduced in the House of Representatives, and all debatable motions and appeals in connection therewith (including debate pursuant to subparagraph (D)), and any amendment offered under this subparagraph, shall not exceed 10 hours minus such times (if any) as Senators consumed or yielded back during consideration of the companion bill introduced in the Senate under paragraph (1)(A).

"(4) Debate in the House of Representatives or the Senate on the conference report on any bill considered under this section shall be limited to not more than 2 hours, which shall be divided equally between the majority leader and the minority leader. A motion further to limit debate is not debatable. A motion to recommit the conference report is not in order, and it is not in order to move to reconsider the vote by which the conference report is agreed to or disagreed to.

"(d) AMENDMENTS AND DIVISIONS PROHIBITED.—Except as otherwise provided by this section, no amendment to a bill considered under this section shall be in order in either the Senate or the House of Representatives. It shall not be in order to demand a division of the question in the House of Representatives (or in a Committee of the Whole). No motion to suspend the application of this subsection shall be in order in the House of Representatives, nor shall it be in order in the House of Representatives to suspend the application of this subsection by unanimous consent.

"(e) TEMPORARY PRESIDENTIAL AUTHORITY TO RESCIND.—At the same time as the President transmits to Congress a special message proposing to rescind budget authority, the President may direct that any budget authority proposed to be rescinded in that special message shall not be made available for obligation for a period not to exceed 45 calendar days from the date the President transmits the special message to Congress.

"(f) DEFINITIONS.—For purposes of this section—

"(1) the term 'appropriation Act' means any general or special appropriation Act, and any Act or joint resolution making supplemental, deficiency, or continuing appropriations;

"(2) the term 'direct spending' shall have the same meaning given such term in section 250(c)(8) of the Balanced Budget and Emergency Deficit Control Act of 1985;

"(3) the term 'budget item' means—

"(A) an amount, in whole or in part, of budget authority provided in an appropriation Act;

"(B) an amount of direct spending; or

"(C) a targeted tax benefit;

"(4) the term 'cancellation of a budget item' means—

"(A) the rescission of any budget authority provided in an appropriation Act;

"(B) the repeal of any amount of direct spending; or

"(C) the repeal of any targeted tax benefit; and

"(5) the term 'targeted tax benefit' means any provision which has the practical effect of providing a benefit in the form of a different treatment to a particular taxpayer or a limited class of taxpayers, whether or not such provision is limited by its terms to a particular taxpayer or a class of taxpayers. Such term does not include any benefit provided to a class of taxpayers distinguished on the basis of general demographic conditions such as income, number of dependents, or marital status.".

(b) EXERCISE OF RULEMAKING POWERS.—Section 904 of the Congressional Budget Act of 1974 (2 U.S.C. 621 note) is amended—

(1) in subsection (a), by striking "and 1017" and inserting "1012A, and 1017"; and

(2) in subsection (d), by striking "section 1017" and inserting "sections 1012A and 1017".

(c) CLERICAL AMENDMENTS.—The table of sections for subpart B of title X of the Congressional Budget and Impoundment Control Act of 1974 is amended by inserting after the item relating to section 1012 the following:

"Sec. 1012A. Expedited consideration of certain proposed rescissions and repeals of tax expenditures and direct spending.".

(d) EFFECTIVE PERIOD.—The amendments made by this Act shall—

(1) take effect on the date that is 1 day after the date of enactment of this Act;

(2) apply only to budget items provided in Acts enacted on or after the date of enactment of this Act; and

(3) cease to be effective on September 30, 2002.".

BYRD AMENDMENT NO. 3666

Mr. BYRD proposed an amendment to amendment No. 3665 proposed by him to the motion to recommit the conference report on the bill S. 4, supra; as follows:

Strike all after the first word in the substitute amendment and insert the following: "instructions to the managers on the part of the Senate to disagree to the conference substitute recommended by the committee of conference and insist on inserting the text of S. 14 as introduced in the Senate on January 4, 1995 (with certain exceptions) which is as follows:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Legislative Line Item Veto Act".

SEC. 2. EXPEDITED CONSIDERATION OF CERTAIN PROPOSED RESCISSIONS AND REPEALS OF TAX EXPENDITURES AND DIRECT SPENDING.

(a) IN GENERAL.—Title X of the Congressional Budget and Impoundment Control Act of 1974 (2 U.S.C. 621 et seq.) is amended by adding after section 1012 the following new section:

"EXPEDITED CONSIDERATION OF CERTAIN PROPOSED RESCISSIONS AND REPEALS OF TAX EXPENDITURES AND DIRECT SPENDING

"SEC. 1012A. (a) PROPOSED CANCELLATION OF BUDGET ITEM.—The President may propose, at the time and in the manner provided in subsection (b), the cancellation of any budget item provided in any Act.

"(b) TRANSMITTAL OF SPECIAL MESSAGE.—

"(1)(A) Subject to the time limitations provided in subparagraph (B), the President may transmit to Congress a special message proposing to cancel budget items and include with that special message a draft bill that, if enacted, would only cancel those budget items as provided in this section. The bill shall clearly identify each budget item that is proposed to be canceled including, where applicable, each program, project, or activity to which the budget item relates. The bill shall specify the amount, if any, of each budget item that the President designates for deficit reduction as provided in paragraph (4).

"(B) A special message may be transmitted under this section—

"(i) during the 20-calendar-day period (excluding Saturdays, Sundays, and legal holidays) commencing on the day after the date of enactment of the provision proposed to be rescinded or repealed; or

"(ii) at the same time as the President's budget.

"(2) In the case of an Act that includes budget items within the jurisdiction of more than one committee of a House, the President in proposing to cancel such budget item under this section shall send a separate special message and accompanying draft bill for each such committee.

"(3) Each special message shall specify, with respect to the budget item proposed to be canceled—

"(A) the amount that the President proposes be canceled;

"(B) any account, department, or establishment of the Government to which such budget item is available for obligation, and the specific project or governmental functions involved;

"(C) the reasons why the budget item should be canceled;

"(D) to the maximum extent practicable, the estimated fiscal, economic, and budgetary effect (including the effect on outlays and receipts in each fiscal year) of the proposed cancellation; and

"(E) all facts, circumstances, and considerations relating to or bearing upon the proposed cancellation and the decision to effect the proposed cancellation, and to the maximum extent practicable, the estimated effect of the proposed cancellation upon the objects, purposes, and programs for which the budget item is provided.

"(4)(A) Not later than 5 days after the date of enactment of a bill containing an amount designated by the President for deficit reduction under paragraph (1), the President shall—

"(i) with respect to a rescission bill, reduce the discretionary spending limits under section 601 of the Congressional Budget Act of 1974 for the budget year and each outyear to reflect such amount; and

"(ii) with respect to a repeal of a tax expenditure or direct spending, adjust the balances for the budget year and each outyear under section 252(b) of the Balanced Budget and Emergency Deficit Control Act of 1985 to reflect such amount.

"(B) Not later than 5 days after the date of enactment of a bill containing an amount designated by the President for deficit reduction under paragraph (1), the chairs of the Committees on the Budget of the Senate and the House of Representatives shall revise levels under section 311(a) and adjust the committee allocations under section 602(a) to reflect such amount.

"(c) PROCEDURES FOR EXPEDITED CONSIDERATION.—

"(1)(A) Before the close of the second day of session of the Senate and the House of Representatives, respectively, after the date of receipt of a special message transmitted to Congress under subsection (b), the majority leader or minority leader of each House shall introduce (by request) the draft bill accompanying that special message. If the bill is not introduced as provided in the preceding sentence in either House, then, on the third day of session of that House after the date of receipt of that special message, any Member of that House may introduce the bill.

"(B) The bill shall be referred to the appropriate committee or (in the House of Representatives) committees. The committee shall report the bill without substantive revision and with or without recommendation. The committee shall report the bill not later than the seventh day of session of that House after the date of receipt of that special message. If the committee fails to report the bill within that period, the committee shall be automatically discharged from consideration of the bill, and the bill shall be placed on the appropriate calendar.

"(C) A vote on final passage of the bill shall be taken in the Senate and the House of Representatives on or before the close of the 10th day of session of that House after the date of the introduction of the bill in that House. If the bill is passed, the Clerk of the Senate or the House of Representatives, as the case may be, shall cause the bill to be engrossed, certified, and transmitted to the other House within one calendar day of the day on which the bill is passed.

"(2)(A) During consideration under this subsection in the House of Representatives, any Member of the House of Representatives may move to strike any proposed cancellation of a budget item.

"(B) A motion in the House of Representatives to proceed to the consideration of a bill under this subsection shall be highly privileged and not debatable. An amendment to the motion shall not be in order, nor shall it be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

"(C) Debate in the House of Representatives on a bill under this subsection shall not exceed 4 hours, which shall be divided equally between those favoring and those opposing the bill. A motion further to limit debate shall not be debatable. It shall not be in order to move to recommit a bill under this subsection or to move to reconsider the vote by which the bill is agreed to or disagreed to.

"(D) Appeals from decisions of the Chair relating to the application of the Rules of the House of Representatives to the procedure relating to a bill under this section shall be decided without debate.

"(E) Except to the extent specifically provided in this section, consideration of a bill under this section shall be governed by the Rules of the House of Representatives. It shall not be in order in the House of Representatives to consider any rescission bill introduced pursuant to the provisions of this section under a suspension of the rules or under a special rule.

"(3)(A) During consideration of a bill under this subsection in the Senate, any Member of the Senate may move to strike any proposed cancellation of a budget item.

"(B) It shall not be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

"(C) Debate in the Senate on a bill under this subsection, and all debatable motions and appeals in connection therewith (including debate pursuant to subparagraph (D)), shall not exceed 10 hours. The time shall be equally divided between, and controlled by, the majority leader and the minority leader or their designees.

"(D) Debate in the Senate on any debatable motion or appeal in connection with a bill under this subsection shall be limited to not more than 1 hour, to be equally divided between, and controlled by, the mover and the manager of the bill, except that in the event the manager of the bill is in favor of any such motion or appeal, the time in opposition thereto, shall be controlled by the minority leader or his designee. Such leaders, or either of them, may, from time under their control on the passage of a bill, allot additional time to any Senator during the consideration of any debatable motion or appeal.

"(E) A motion in the Senate to further limit debate on a bill under this subsection is not debatable. A motion to recommit a bill under this subsection is not in order.

"(F) If the Senate proceeds to consider a bill introduced in the House of Representatives under paragraph (1)(A), then any Senator may offer as an amendment the text of the companion bill introduced in the Senate under paragraph (1)(A) as amended if amended (under subparagraph (A)). Debate in the Senate on such bill introduced in the House of Representatives, and all debatable motions and appeals in connection therewith (including debate pursuant to subparagraph (D)), and any amendment offered under this subparagraph, shall not exceed 10 hours minus such times (if any) as Senators consumed or yielded back during consideration of the companion bill introduced in the Senate under paragraph (1)(A).

"(4) Debate in the House of Representatives or the Senate on the conference report on any bill considered under this section shall be limited to not more than 2 hours, which shall be divided equally between the majority leader and the minority leader. A motion further to limit debate is not debatable. A motion to recommit the conference report is not in order, and it is not in order to move to reconsider the vote by which the conference report is agreed to or disagreed to.

"(d) AMENDMENTS AND DIVISIONS PROHIBITED.—Except as otherwise provided by this section, no amendment to a bill considered under this section shall be in order in either the Senate or the House of Representatives. It shall not be in order to demand a division of the question in the House of Representatives (or in a Committee of the Whole). No motion to suspend the application of this subsection shall be in order in the House of Representatives, nor shall it be in order in the House of Representatives to suspend the application of this subsection by unanimous consent.

"(e) TEMPORARY PRESIDENTIAL AUTHORITY TO RESCIND.—At the same time as the President transmits to Congress a special message proposing to rescind budget authority, the President may direct that any budget authority proposed to be rescinded in that special message shall not be made available for obligation for a period not to exceed 45 calendar days from the date the President transmits the special message to Congress.

"(f) DEFINITIONS.—For purposes of this section—

"(1) the term 'appropriation Act' means any general or special appropriation Act, and any Act or joint resolution making supplemental, deficiency, or continuing appropriations;

"(2) the term 'direct spending' shall have the same meaning given such term in section 250(c)(8) of the Balanced Budget and Emergency Deficit Control Act of 1985;

"(3) the term 'budget item' means—

"(A) an amount, in whole or in part, of budget authority provided in an appropriation Act;

"(B) an amount of direct spending; or

"(C) a targeted tax benefit;

"(4) the term 'cancellation of a budget item' means—

"(A) the rescission of any budget authority provided in an appropriation Act;

"(B) the repeal of any amount of direct spending; or

"(C) the repeal of any targeted tax benefit; and

"(5) the term 'targeted tax benefit' means any provision which has the practical effect of providing a benefit in the form of a different treatment to a particular taxpayer or a limited class of taxpayers, whether or not such provision is limited by its terms to a particular taxpayer or a class of taxpayers. Such term does not include any benefit provided to a class of taxpayers distinguished on the basis of general demographic conditions such as income, number of dependents, or marital status.".

(b) EXERCISE OF RULEMAKING POWERS.—Section 904 of the Congressional Budget Act of 1974 (2 U.S.C. 621 note) is amended—

(1) in subsection (a), by striking "and 1017" and inserting "1012A, and 1017"; and

(2) in subsection (d), by striking "section 1017" and inserting "sections 1012A and 1017".

(c) CLERICAL AMENDMENTS.—The table of sections for subpart B of title X of the Congressional Budget and Impoundment Control Act of 1974 is amended by inserting after the item relating to section 1012 the following:

"Sec. 1012A. Expedited consideration of certain proposed rescissions and repeals of tax expenditures and direct spending.".

(d) EFFECTIVE PERIOD.—The amendments made by this Act shall—

(1) take effect on the date that is 2 days after the date of enactment of this Act;

(2) apply only to budget items provided in Acts enacted on or after the date of enactment of this Act; and

(3) cease to be effective on September 30, 2002.".

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. DOLE. Mr. President, I ask unanimous consent that Acquisition and Technology Subcommittee of the Committee on Armed Services be authorized to meet at 10:00 a.m. on Wednesday, March 27 in open session, to receive testimony on proliferation of weapons of mass destruction and the impact of export controls on national security in review of the defense authorization request for the fiscal year 1997 and the future years defense program.

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

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. DOLE. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Wednesday, March 27, 1996, to conduct a mark-up of the following nominees: the Honorable Alan Greenspan, of New York, to be Chairman of the Board of Governors of the Federal Reserve System; The Honorable Alice Rivlin, of Pennsylvania, to be a Governor and serve as Vice Chairman of the Board of Governors of the Federal Reserve System; Laurence Meyer, of Missouri, to be a Governor of the Board of Governors of the Federal Reserve System; Stuart E. Eizenstat, of Maryland, to be under Secretary of Commerce for International Trade; and Gaston L. Gianni, Jr., of Virginia, to be Inspector General, Federal Deposit Insurance Corporation.

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

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. DOLE. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session on the Senate on Wednesday, March 27, 1996, to conduct a mark-up of pending nominations.

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

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. DOLE. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be allowed to meet during the Wednesday, March 27, 1996 session of the Senate for the purpose of conducting a hearing on Spectrum Use and Management.

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

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. DOLE. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be granted permission to meet during the session of the Senate on Wednesday, March 27, 1996, for purposes of conducting a Full Committee hearing which is scheduled to begin at 9:30 a.m. The purpose of this hearing is to receive testimony on S. 1605, a bill to amend and extend certain authorities in the Energy Policy and Conservation Act which either have expired or will expire on June 30, 1996, and S. 186, the Emergency Petroleum Supply Act.

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

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. DOLE. Mr. President, I ask unanimous consent that the full Committee

on Environment and Public Works be granted permission to conduct a hearing Wednesday, March 27, at 9 a.m., Hearing Room (SD–406), on possible Federal legislative reforms to improve prevention of, and response to, oil spills in light of the recent North Cape spill.

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

COMMITTEE ON FOREIGN AFFAIRS

Mr. DOLE. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, March 27, 1996, at 10 a.m., to hold a business meeting to vote on pending items.

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

COMMITTEE ON THE JUDICIARY

Mr. DOLE. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Wednesday, March 27, 1995, at 2 p.m., to hold a hearing on judicial nominees.

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

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. DOLE. I ask unanimous consent that the Committee on Labor and Human Resources be authorized to hold a meeting during the session of the Senate on Wednesday, March 27, 1996, at 9 a.m. The committee will be in executive session on S. 1477, the Food and Drug Administration Performance and Accountability Act and the Older Americans Act Reauthorization, an original bill.

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

COMMITTEE ON RULES AND ADMINISTRATION

Mr. DOLE. Mr. President, I ask unanimous consent that the Committee on Rules and Administration be authorized to meet during the session of the Senate on Wednesday, March 27, 1996, at 9:30 a.m., to hold a hearing on campaign finance reform.

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

SELECT COMMITTEE ON INTELLIGENCE

Mr. DOLE. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Wednesday, March 27, 1996, at 9:30 a.m. to hold an open hearing on intelligence matters.

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

SELECT COMMITTEE ON INTELLIGENCE

Mr. DOLE. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Wednesday, March 27, 1996, at 2 p.m. in SH–219 to hold a closed briefing on intelligence matters.

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

SUBCOMMITTEE ON INVESTIGATIONS

Mr. DOLE. Mr. President, I ask unanimous consent that the Permanent Subcommittee on Investigations of the Committee on Governmental Affairs, be authorized to meet during the session of the Senate on Wednesday, March 27, 1996, to hold hearings on the Global Proliferation of Weapons of Mass Destruction, Part II.

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

SUBCOMMITTEE ON SEAPOWER

Mr. DOLE. Mr. President, I ask unanimous consent that the Subcommittee on Seapower of the Committee on Armed Services be authorized to meet on Wednesday, March 27, 1996, at 1:30 p.m., in open session, to receive testimony on the Department of the Navy's submarine development and procurement programs in review of the Defense authorization request for fiscal year 1997 and the future years defense program.

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

ADDITIONAL STATEMENTS

TRUE COMMUNITY SPIRIT

• Mr. HOLLINGS. Mr. President, I would like to take a moment to acknowledge the passing of a truly admirable woman, Laura Toliver Jefferson, known affectionately and respectfully as Mother Jefferson. She was a tireless advocate for her community as well as a source of inspiration to those who knew her. Mrs. Jefferson will be remembered by all as the woman who fought over the course of nearly 30 years to get public sewer service for her community of Arthurtown, Little Camden, and Taylors. This was the area of South Carolina in which she was born, raised 10 children, and where she died at the age of 93. She will be greatly missed.

Mother Jefferson came to my attention when she was lobbying for a sewage system to be built in her community. To say that this development was long overdue would be an understatement. We tried several different avenues year after year, but the funding kept getting denied or held up. Over the many years, the citizens of Arthurtown, Little Camden, and Taylors found themselves caught in a complicated and often frustrating bureaucratic process. Where another person might be enraged by the redtape, Mrs. Jefferson remained undaunted, focused, and incredibly polite. Without ever complaining, she voiced the concerns of herself and her community. A local newspaper, the State, captured her humility and humor in an interview in 1985, "It ain't no disgrace to be poor. It's just inconvenient."

After nearly three decades of fighting, the community finally received $3.9 million in Federal and State grants, and the construction began. On July 12, 1995, the people of Little Camden, Arthurtown, and Taylors got a sewage system. They also got the opportunity to thank Mother Jefferson, in the form of a celebration at her house. As the crowd squeezed into her bathroom to share the communities' very first toilet flush, She said "I'm so grateful that I'm lost for words."

Mother Jefferson was one of the more articulate, gracious, determined people I have met. She was a truly good woman who participated in community affairs and made an enormous difference in people's lives. Her involvement and her spirit serve as a lasting lesson to us all. When writers or politicians talk about what makes America great, they are talking about people like Mother Jefferson. I send my sincere condolences to her family and friends. Like them, I will not forget her.•

BUDGET CUTS AND EDUCATION

Mr. SIMON. On March 12 the Senate voted to restore $2.6 billion in Federal funding for education. While this would still leave Federal support for education below 1995 levels, I was pleased to see the Senate take bipartisan action to at least partially reverse what was clearly an unwise decision. Senator HARKIN, Senator SPECTER, and the other Senators who have shown strong leadership on this issue deserve a great deal of credit for their efforts.

Recently, the Chicago Tribune published an article on the effect that Federal education cuts would have for the State of Illinois and the city of Chicago. The article gave a compelling account of what such cuts would mean for the millions of students. I strongly urge the Senate to maintain its position in conference to prevent the harmful impact that the House-proposed cuts would have on Illinois and on the Nation.

I ask that the Chicago Tribune article be printed in the RECORD.

The article follows:

[From the Chicago Tribune, Feb. 13, 1996]

U.S. BUDGET CUTS IMPACT CHICAGO SCHOOLS

(By Nathaniel Sheppard, Jr.)

Three years ago, at least two fights a day broke out at Ravenswood Elementary School in Chicago's rough and tumble Uptown community.

That number is down to about two per month, according to school officials, largely due to a Peer Leadership project that is part of a nationwide program known as Safe and Drug Free Schools and Communities.

Despite the program's success at Ravenswood and other city schools, it is at risk of becoming a casualty in the battle between Congress and President Clinton over the Federal budget.

It is one of several programs that could be crippled by cuts of $54 million in Illinois' share of Federal funds under the Title I program for the Nation's neediest children.

The cuts are incorporated in a temporary spending bill, known as a continuing resolution, that is keeping the government functioning during the budget crisis.

Under the stopgap measure, Federal funding for Title I programs in the State is cut from its $317.2 million level in the 1995 fiscal year to $263 million in fiscal 1996.

The cuts could lead to substantial layoffs of teachers—as many as 600 in Chicago alone, according to Department of Education estimates—and could hobble programs that have become the centerpiece of national and State efforts to make schools safe, drug-free and internationally competitive by the year 2000.

The 30-year-old Title I program is the largest run by the Department of Education.

It provides remedial aid to more than 50,000 under-performing students in public and private schools, including two-thirds of all elementary schools.

The program also funds salaries for thousands of teachers and aides.

Congress passed the temporary spending bill in December to keep agencies running after parts of the government were shut down twice last year in the budget dispute.

Clinton has agreed to Republican demands to balance the budget in 7 years using economic assumptions of the Congressional Budget Office. But Democrats and Republicans still disagree over how deep some budget cuts should be.

Republicans argue that Democrats exaggerate the harm the cuts will cause and say that in several areas, their reforms will lead to increased funding for education programs.

Nationwide, cuts in the Title I program total $1.1 billion or 17 percent over last year, under the current continuing resolution.

That reduces spending to $7 billion for individualized instruction, smaller classes, after-school study programs, computers, projects to encourage parental involvement in schools and other strategies some educators say are critical to meeting the federally mandated year 2000 goal.

"The cuts are a serious problem that threatens the safety and well-being of 40 million children and nearly every public school teacher, principal, and support staff member in America," said Secretary of Education Richard Riley.

Nationwide, safe and drug-free school and community programs would be slashed $107.8 million, Education Department officials say. That, they add, is enough to pay for 400,000 hand-held metal detectors, hire 3,300 security officers, keep 3,600 schools open for 3 hours of extra-curricular programs, hire 2,000 teachers for conflict-resolution courses and train 50,000 teachers and administrators in drug and violence prevention and education.

"For us, the impact will be devastating," said Patricia McPhearson, manager of the Safe and Drug Free Schools Program in Chicago. Its budget is cut 25 percent to $4.3 million in Chicago under the stopgap funding.

Statewide, cuts in the program total $4.7 million. Under even larger cuts proposed by House Republicans, the State would lose $10 million from the program.

Popular projects such as those at Sauganash and Ravenswood schools, and Amundsen High School could become skeletal programs, McPhearson said.

The program at Amundsen seeks to change the climate of community violence.•

NATIONAL DOMESTIC VIOLENCE HOTLINE

• Mr. WELLSTONE. Mr. President, 2 weeks ago I came to the floor to announce the realization of another component of our initiative to prevent violence against women—the national domestic violence hotline. At that time, I indicated that I would come to the floor every day for 2 weeks, whenever my colleagues would be kind enough to give me about 30 seconds of time, to read off the 800 number of the hotline.

The toll free number, 1-800-799-SAFE, will provide immediate crisis assistance, counseling, and local shelter referrals to women across the country, 24 hours a day. There is also a TDD number for the hearing impaired, 1-800-787-3224.

Mr. President, roughly 1 million women are victims of domestic violence each year and battering may be the single most common cause of injury to women—more common than auto accidents, muggings, or rapes by a stranger. According to the FBI, one out of every two women in America will be beaten at least once in the course of an intimate relationship. The FBI also speculates that battering is the most under-reported crime in the country. It is estimated that the new hotline will receive close to 10,000 calls a day.

I hope that the new national domestic violence hotline will help women and families find the support, assistance, and services they need to get out of homes where there is violence and abuse.

Mr. President, once again, the toll free number is 1-800-799-SAFE, and 1-800-787-3224, for the hearing impaired.•

OPERATION SAFE HAVEN AND THE ASSETS OF EUROPEAN JEWS IN SWISS BANKS

Mr. D'AMATO. Mr. President, I rise today to discuss an issue of great emotion and importance to Holocaust survivors and their families. The issue at hand is an inquiry into the return, by Swiss banks, of assets deposited by European Jews and others in the years preceding the Holocaust.

From the 1930's until the onset of the Holocaust, European Jews and others deposited funds and other assets in Swiss banks for safekeeping. In doing so, they were trying to avoid what some inevitably saw as the writing on the wall, namely the coming Nazi onslaught. Others did so, simply for business reasons. At the end of the war however, a great many Swiss banks denied holding these assets.

Throughout the intervening years, the victorious Allies made several requests of the Swiss Government for cooperation in finding these assets. Several organizations, in addition to the Allies made repeated and determined efforts to persuade the Swiss to examine their banks and to find these missing assets.

For the Swiss though, the matter was simple, they did all that they could to avoid any type of examination of their banking system, despite clear evidence of very deep cooperation with the Nazis. The Swiss hid behind their 1934 Bank Secrecy Act, claiming that they could not divulge the identity of their account holders. This is quite ironic in view of the fact that the 1934 Act was designed to protect the identity of the account holders from the Nazis. Now, they were using this same law to shield the assets from the survivors and the victims' rightful heirs.

Finally, in a series of agreements and treaties with the Allies following the war, Switzerland reluctantly agreed to search their banks' files for these assets. Finally, in 1962, the Swiss Bankers Association undertook a search through their records to find what assets, they denied holding in the first place. At the conclusion of this search, they found approximately 9 million Swiss francs, or some $2 million, belonging to 961 claimants. Nevertheless, some 7,000 claimants were turned down.

Numerous sources have questioned the validity of this search, but nothing was done beyond this until another search was performed in 1995. In this new search, according to the Swiss Bankers-Association, a total of 893 accounts, holding $32 million were found. These accounts were said to have been dormant for at least 10 years and were opened before 1945. These numbers have been criticized, by a variety of sources, as vastly too small.

It is in this vein, as Chairman of the Senate Banking Committee, I have begun an inquiry into this situation. The inquiry will examine the procedures by which Swiss banks calculated the amount of assets in their possession. In these post-war searches, in 1962-63, and most recently in 1995, the Swiss banks used different criteria to conduct their examinations. Therefore, the Banking Committee will evaluate how the banks searched their accounts, and what kind of accounts might have been missed. The Committee will try to discern if the searches were comprehensive enough to find all assets.

While in the early stages of the search, my staff has found declassified military intelligence documents that detail a variety of fascinating facts vital to this inquiry. In "Operation Safe Haven," a program of the Joint Treasury Department-Justice Department-State Department operation to locate and identify Nazi assets and looted assets in Europe, Military Intelligence officers filed a series of now-declassified reports on these topics. One such document, dated July 12, 1945, details a list of 182 separate bank accounts held by Societe General de Surveillance S.A. of Geneva. These holders of these bank accounts were from Romania, Hungary, Bulgaria, Croatia, Moravia, Slovakia, France, Holland, and Denmark.

This important document is vital to understanding the issue of Holocaust assets in Swiss banks. More importantly, we must compare it to the declarations of the Swiss that they had no

real assets in their possession, and to later fulfillment of some claims made with them. To start, I would like to know if these accounts are among those found in the post-war, 1962, and 1995 searches, and if not, where is the money now?

At this time, Mr. President, I ask that the above mentioned document be printed in the RECORD at the conclusion of my remarks.

Mr. President, this document proves vital to countering the claim that there were no assets, or very little. With the help of the Congressional Research Service, I would like to list the amount of assets, held in the various currencies reported, converted into dollars at the 1945 rate. Additionally, I will list the value of those assets in 1995 dollars accounting for inflation, as well as what the accounts would hold today with 3 percent, 4 percent, and 5 percent interest respectively. The amounts are as follows:

Currency	1945 amount	1995 amount	1945+3%	+4%	+5%
Swiss Francs	$2,214,915	$18,738,181	$9,989,266	$16,390,371	$26,667,577
French Francs	4,925	41,665	22,261	36,396	59,297
Belgian Francs	713	6,034	3,223	5,269	8,585
British Sterling	71,488	604,790	323,126	528,296	860,716
Canadian Dollars	264	2,233	1,193	1,951	3,179
U.S. Dollars	119,020	1,006,915	537,970	879,557	1,433,009
Dutch Florin	227	1,923	1,026	1,678	2,733
Total	2,411,552	20,401,741	10,878,065	17,843,518	29,035,096

Mr. President, as you can see, these amounts are of an incredible magnitude. If they are accurate numbers, there is a real problem and the Swiss banks have a lot of questions to answer, and I plan to pose questions to them today. I plan on actively pursuing this matter until I achieve an authoritative, accurate and final accounting of all assets that numerous Swiss banks continue to hold from this time period and to which the survivors and rightful heirs are entitled.

The document follows:

[USG–SWI–105; Secret: No. 12100; Bern, Switzerland, Reference: SH No. 74, Date: July 12, 1945]

SAFEHAVEN REPORT

Subject: Supplementary Report on Funds Held for Others by Societe General do Surveillance S.A., Geneva.

Reference is made to SAFEHAVEN Report No. 4 of April 9, 1945. Attached hereto is a list of balances held by Societe General de Surveillance S.A., Geneva for nationals who are also residents of Rumania, Hungary, Bulgaria, Croatin, Moravia, Slovakia, France, Holland, and Denmark. It will be soon from the attached list that the balance hold for nationals who are also residents of the named countries total:

Swiss Francs	9,506,078.62
French Francs	250,000.00
Belgian Francs	31,282.08
Francs Gold (no further description)	182,100.00
British Sterling	17,739–4–17
Canadian Dollars	291.68
U.S. Dollars	119,020.64
Florin	599.22
Slovakia Cr.	5,162.60
Rumania Nom. Lei	1,400,000.00
Greek Drachmas	500,000.00
Kuna	10,069.00

And one safety deposit box for which no value can be attributed at this time.

The attached list represents certain amendments to the list appended to SAFEHAVEN Report No. 4 suggested by our informants, and also includes additional information in regard to other balances not heretofore reported. The attached list, which contains more detailed information relative to the property held than the earlier one, is said to be a complete list of all persons who are nationals and also residents of the countries named who have balances with S.G.S., except that for practical reasons later compilations omit balances below Swiss francs 10,000. Furthermore, it may be noted that we are advised that we now have a complete list of all accounts held by S.G.S. for all persons who are nationals and residents of countries which are of interest except Germany.

While we have been advised that S.G.S. holds no balances for persons in Germany, this statement has been questioned on the basis of an admission that advances were made to a German resident of Switzerland out of funds due Mr. Siepmann, the former Manager of the Hamburg Control Company which was formerly affiliated with S.G.S., and it is possible that an additional report will be submitted if additional information is obtained at a later date.

In SAFEHAVEN Report No. 4 it was stated that:

". . . It is reliably reported that since 1941 S.G.S. also has acted in a banking or fiduciary capacity by holding funds representing profits realized by its Balkan customers on shipments of merchandise to neutrals and to enemy territory. The transactions which resulted in the accumulation of profits involved over invoicing consignees, shipment of the merchandise against payment in Switzerland in Swiss francs, and withholding by S.G.S. of the excess payments or balances . . .

"It is stated that the aforementioned funds and other property are beneficially owned principally by Jewish persons who are nationals of and residents of the abovementioned countries and who were endeavoring (1) to profit from black market operations in local currencies of the Balkan countries; (2) to move funds out of their home countries; or (3) to insure that the funds would be safe from confiscation by their local authorities".

During the present investigation, however, a question was raised as to whether or not the above statement also were true for balances held for persons who are nationals and also residents of France, Holland, and Denmark and in reply the following memorandum dated June 18, 1945 was received:

"The only countries for which we hold financial accounts are Romania and to a very limited extent Bulgaria. We have never transacted such business for people in other countries."

From the foregoing it would appear that our earlier remarks do not hold for nationals and residents of Hungary, Croatia, Moravia, Slovakia, France, Holland, and Denmark. This conclusion seems to be correct since at our request the Genova Consulate discussed the memorandum of June 18, 1945, further with the S.G.S. and on July 2, 1945 advised in part as follows:

The memorandum of June 18 from S.G.S. is correct. On the French list all but the last two entries have been held since before the war. The last two were acquired from a bank in free exchange for the account of the persons mentioned. The Hungarian gold (as also the French gold) was deposited with the S.G.S. without its having any knowledge as to how it had been acquired."

For your further information, we are advised by the Geneva Consulate in their letter of July 2, 1945, that all dollar balances are deposited in blocked accounts except one of $4200 held for Maurice Moiso Rothmann, Bucharest, which is in the form of currency.

With regard to the balances held in French francs, the following was reported in the Geneva Consulate's letter referred to above:

"There is only one case involving a balance in French bank notes (S.A.R. DE TRANSPORTURI EGER on the Rumanian list involving 250,000 French francs) and those were declared to the French Consulate here by the S.G.S.

"Holdings shown on the French list should supposedly be declared by the owners. S.G.S. has no obligation to declare anything in these cases. It is not known for sure, but the presumption is that the French owners have not made any declarations in order to avoid taxation."

This information is reported to Washington and London for whatever further action may be desired.

We should like to request again that this information be regarded as extremely confidential and be so handled that it will not be disclosed to Swiss or other sources. The request is for the protection of our informants who appear to have been very cooperative.

Enclosures: 3 Lists

850.3/711.2

DJR/KRH/EGR/eb

Original and hectograph to the Department

Two copies to American Embassy, London

One copy to American Embassy, Lisbon

One copy to American Embassy, Madrid

Two copies to British Legation, Bern.

Reproduced by London Office, US Group CC. 2 August 1945.

[Enclosure No. 1 to Despatch No. 12100 (SH No. 74), dated July 12, 1945, from the American Legation Bern.]

Roumanie	Currency	Soldes crediteurs
M. Adler, Bucharest	FrS	22,018.85
Mondy Agent, Bucarest	FrS	22,219.70
Agraproduct, Bucarest c/bloque (vente 432 T. pois par W. Kundig & Co. Zurich.	FrS	330,110.00
Agraproduct, Bucarest c/financier	FrS	493,095.67
Leo Alpern, Bucarest	FrS	14,123.00
Arion Samuel, Bucharest	FrS	20,703.90
Mihail Atias, Bucarest	FrS	5,000.00
Mme. Cocutza M. Bach, Bucarest	FrS	45,989.10
Leon Balian, Bucarest	S	1,591.75
Leon Balian, Bucarest	FrS	[1]400.55
Leon Balian, Constantza (actions Selecta SAR, Bucarest).	Nom.Loi	1,400,000.00

[Enclosure No. 1 to Despatch No. 12100 (SH No. 74), dated July 12, 1945, from the American Legation Bern.]

Roumanie	Currency	Soldes crediteurs
Balian & Co. S.A. Bucarest	FrS	4,557.40
Balian & Co. S.A. Bucarest	Fbg	31,282.08
Emil Neumann Bercovici, Braila	FrS	15,772.05
Kriker Bouhartzian, Bucarest	FrS	9,993.30
Alexandru P. Bratulescu, Bucarest	FrS	9,992.80
Serban Salviny Cappon, Bucarest	FrS	3,000.00
Jancu Chitzes, Bucarest	FrS	5,953.05
Jancu Chitzes, Bucarest	S	3,013.66
Ing. Andrei V. Chrissoghelos No. 567	FrS	54,850.50
Ing. Andrei V. Chrissoghelos No. 936	FrS	579,263.50
Companie Cific S.A. Bucarest	FrS	36,780.53
H. Cohl, Bucarest	FrS	9,974.60
D. Constantinescu, Bucarest	FrS	7,500.00
D. Constantinescu, Bucarest c/Depot	Francs OR	3,800.00
Ernst Ozallek, Bucarest	S	205,312.25
Ernst Ozollek, Bucarest	FrS	1,270.36
Const. A. Dimitropol, Bucarest	FrS	8,100.00
Eug. Dornhelm, Timiscara	FrS	35,000.00
"Ergede" Radu G. Dumitrescu, Bucarest	FrS	3,272.65
S.A.R. de Transporturi Eger, Bucarest	FrS	258,381.05
S.A.R. de Transporturi Eger, Bucarest c/ bloque.	FrS	10,500.00
S.A.R. de Transporturi Eger, Bucarest (en billets de banque).	Flrs	250,000.00
Adolph J. Ellenbogen, Bucarest	FrS	5,925.80
Externa. S.A., Bucarest	FrS	1,600.00
Constantin Feltoianu, Bucarest	FrS	523,919.14
Mme. Adela Feldman, Bucarest	FrS	25,000.00
Isaac Feldstein, Bucarest c/927	FrS	736,792.60
Isaac Feldstein, Bucarest c/bloque	S	19,444.38
Isaac Feldstein, Bucarest	S	130.00
Isaac Feldstein, Bucarest c/suspens	FrS	1,465.00
Isaac Feldstein, Bucarest	Francs OR	32,300.00
Jankel Jancu Feldstein, Bucarest c/926	FrS	67,000.00
Jankel Jancu Feldstein, Bucarest	Francs OR	20,000.00
A. Fischler, Bucarest	FrS	6,000.00
Mme. Flora Franco, Bucarest	FrS	25,971.05
Mois Aron Franco, Bucarest	FrS	25,000.00
S.A. Gattorno, Bucarest	FrS	2,106.25
D. Alexandru Cerendai, Bucarest	FrS	5,000.00
George Gigantes, Bucarest	S	2,000.00
D. Goldberg, Bucarest	S	9.16.10
Rose Gorcewicz, Bucarest	FrS	7,497.00
Heinrich Gruenberg, Bucarest	FrS	14,973.25
Baruch Halpern, Bucarest	FrS	269,036.90
Hanza Romana, Bucarest	FrS	340.21
Marou Harabaziu, Bucarest	FrS	20,000.00
Herscovici H. Leib	FrS	90,525.80
Herscovici Simon, Bucarest	FrS	30,310.00
Heinrich Hoffman, Bucarest	FrS	8,472.55
Intercontinentale A.G., Bucarest	FrS	133,864.00
Intercontinentale A.G., Bucarest c/Espagne	FrS	27,258.10
Intercontinentale A.G., Bucarest c/Suede	FrS	11,949.45
Avram Adolf Isvoranu, Bucarest	FrS	193.80
Avram Adolf Isvoranu, Bucarest c/special	S	5,000.00
Avram Adolf Isvoranu, Bucarest (c/billets de bloque).	L	7,170.00.00
Joan C. Kisielevschi, Bucarest	FrS	10,000.00
Dr. Arthur Kiro, Bucarest	FrS	1,855,70
Moreno Klarsfeld, Bucarest	FrS	24,916.35
Sache Klein, Bucarest	S	1,690.00
Lupu Levensohn, Galatz	S	243.4.3
Robert Levy, Bucarest	FrS	5,707.50
Mme Alexander Lichtinger, Bucarest	FrS	22,500.00
Lloyd International, Bucarest	S	7,521.51
Lloyd International, Bucarest	FrS	426.47
Erich M. Loewenthal, Bucarest	FrS	100,115.00
Jules Loventons, Bucarest	FrS	20,000.00
Leopold Lustig, Bucarest	FrS	39,698.95
Jerassim Marulis, Bucarest	FrS	20,000.00
Ing. Gregore Melinte, Bucarest	FrS	342,623.76
Ing. Gregore Melinte, Bucarest (1 safe loue).		.....
Sigmund Mendelsohn, Bucarest	S	2,000.00
Mihran D. Mesrobian, Bucarest	FrS	249,988.60
Lazar Munteanu, Bucarest	S	2,339.36
Oficiul National de Comert S.A.R., Bucarest c/bloque.	S	218.74
Oficiul National de Comert S.A.R., Bucarest.	FrS	11,568.55
Jose. M. Pincas, Bucarest	S	5,984.14
Jos M. Pincas, Bucarest	FrS	588.60
Heskia Presente, Bucarest	FrS	66,092.31
Heskia Presente, Bucarest	S	1,946.39
Heskia Presente, Bucarest (en especies)	FrS	8,727.00
Rachel Presente, Bucarest	FrS	761,582.55
Rachel Presente, Bucarest	S	8,315.72
Rachel Presente, Bucarest	Frances OR	126,000.00
Rachel Presente, Bucarest (en especies)	Drachmes	500,000.00
Rachel Presente, Bucarest (en especie)	FrS	8,336.73
Rachel Presente, Bucarest (en billets bloque).	L	10,000.00.00
M.A. Rand & Co. Bucarest	L	312.10.4
M.A. Rand & Co. Bucarest	S	8.77
Simon L. Ross, Bucarest	FrS	6,113.30
Maurice Moise Rothmann, Bucarest	FrS	6,445.90
Maurice Moise Rothmann, Bucarest (en billets bloque).	S	4,200.00
Maurice Moise Rothmann, Bucarest	FrS	4,775.00
Rothschild, Bucarest	FrS	82,384.35
David Sabetay, Bucarest	FrS	140,739.33
Salomon Schapira, Bucarest	FrS	39,950.00
Simex S.A.R., Bucarest c/M. Goldring	FrS	9,623.97
Simex S.A.R., Bucarest c/Froim Pricert	FrS	44,668.54
Simex S.A.R., Bucarest c/Fl. Abeles	FrS	14,407.45
Socerex S.A.R., Bucarest c/No. 1	FrS	485,817.88

[Enclosure No. 1 to Despatch No. 12100 (SH No. 74), dated July 12, 1945, from the American Legation Bern.]

Roumanie	Currency	Soldes crediteurs
Socerex S.A.R., Bucarest c/bloque garantie 10%.	FrS	97,000.00
Socerex S.A.R., Bucarest c/5% reserve	FrS	9,733.25
Socerex S.A.R., Bucarest c/affaires Suede	S	7,654.03
B. Taingiu, Bucarest	FrS	30,717.90
Translloyd Maison de Transport, Bucarest	FrS	984.40
J. Weintraub, Bucarest	FrS	1,629.70
Nikolaus Zeller, Bucarest	FrS	5,198.00

[1] debit.

[Enclosure No. 2 to Despatch No. 12100 (SH No. 74) dated July 12, 1943, from the American Legation, Earn.]

Hongree	Currency	Soldes crediteurs
Rosa Farkas, Budapest		9,900.00
Agai & London Budapest	FrS	899,980.40
Bolban Bartok, Budapest	FrS	5,000.00
Mue Rosa Budanovich, Budapest	FrS	3,995.00
Fleischor Sandor, Budapest	FrS	470.00
Emile Friedlander, Budapest	FrS	119,979.83
Gesellschaft fur Internationalon Handel & Kommis, Budapest.	FrS	17,966.09
Hormes A.G., Budapest	S	6,498.62
Intercontinentale A.G., Budapest 600 montant sorvire au paiomont de frot do 256 Tonnes a Buche.	FrS	66,371.24
Alexander Grauss, Budapest	S	119.70
Goza Guttamann, Szegod	S	1,449.55
Horvat Istvan, Budapest	S	1,140.65
B. Kraicz, Budapest	FrS	151,404.95
Fr. Laufer, Budapest	FrS	183,108.63
Dr. A. Miklos, Budapest:		
7,007 pieces d'or do FrS 20-a 30	FrS	210,210
2 pieces d'or do FrS 10-a 15	FrS	30
		210,240
Moins solde debiteur	FrS	175,331.90
		34,908.10
A Rosenbaum, Budapest	S	105.44
Zoltan Weiner, Budapest	FrS	10,000.00
Hermes Ungar, Allg. Wochselstubo A.G. Budapest.	S	6,493.62
Rosa Farkas, Budapest		9,900.00
Agai & London Budapest	FrS	899,980.40
Bolban Bartok, Budapest	FrS	5,000.00
Mue Rosa Budanovich, Budapest	FrS	3,995.00
Fleischor Sandor, Budapest	FrS	470.00
Emile Friedlander, Budapest	FrS	119,979.83
Gesellschaft fur Internationalon Handel & Kommis, Budapest.	FrS	17,966.09
Hormes A.G., Budapest	S	6,498.62
Intercontinentale A.G., Budapest 600 montant sorvire au paiomont de frot do 256 Tonnes a Buche.	FrS	66,371.24
Alexander Grauss, Budapest	S	119.70
Goza Guttamann, Szegod	S	1,449.55
Horvat Istvan, Budapest	S	1,140.65
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		210,240
Moins solde debiteur	FrS	175,331.90
		34,908.10
A Rosenbaum, Budapest	S	105.44
Zoltan Weiner, Budapest	FrS	10,000.00
Hermes Ungar, Allg. Wochselstubo A.G. Budapest.	S	6,493.62

[Enclosure No. 3 to Despatch No. 12100 (SH Report No. 74) dated July 12, 1945, from the American Legation,]

Claimant	Currency	Soldes crediteurs
BULGARIE		
Nissin Hasan, Sofia	FrS	23,774.30
B. Heilborn, Sofia	FrS	165,117.18
Sergey Kalendjieff, Sofia	FrS	68,684.35
Marco Markoff, Sofia	FrS	39,249.10
Joseff Bohor Yulzeri, Sofia	FrS	4,512.00
CROATIE		
A. Debenjiak, Zagreb	FrS	34,436.22
"Jadran" Int. Transp., Zagreb	FrS	14,958.62
"Jadran" Int. Transp., Zagreb	Küna	10,069.00
Export Ste. Commle., Split	S	2,258.58
Export Ste. Commle, Split	FsS	360,565.00
MORAVIN		
Dr. Erwin Karpeles, Brno	FrS	5,930.70
SLOVAQUIE		
Richard/Julius Heimann	FrS	15,000.00
W. Markstein, Bratislava	Fl	599.22
W. Markstein, Bratislava	L	2,100.00
W. Markstein, Bratislava	S	4,539.32
W. Markstein, Bratislava	FrS	27,528.90

[Enclosure No. 3 to Despatch No. 12100 (SH Report No. 74) dated July 12, 1945, from the American Legation,]

Claimant	Currency	Soldes crediteurs
W. Markstein, Bratislava	Cr. Sl.	5,162.60
FRANCE		
Establissements Douillet & Fils, Domleger	S USA	19,632.66
Establissements Douillet & Fils, Domleger	FrS	900.01
Alice Eisinger, Marseille	FrS	17,078.50
Alice Eisinger, Marseille	$ USA	1,365.15
Alice Eisinger, Marseille plus differents titres americains.	$ Can.	291.68
Eliane Eisinger, Marseille plus differents titres americains.	$ USA	1,083.54
H. Yulzari, Casablanca	FrS	84,648.65
Ph. de Tristan, Paris: Trustee pour Foreign Mortgage and Investment Co. Ld. St. Johns Nfnd.	FrS	60,950.10
HOLLANDE		
Amsterdamsche Goederen Bk. Amsterdam	FrS	14,090.40
M. H. Bregstein, Amsterdam	FrS	18,043.15
J. H. Meesmann, Amsterdam	FrS	55,578.30
Ed. Sylmans, Rotterdam	FrS	47,476.85
DANEMARK		
F. Boehn, Copenhague	FrS	43,538.70

UNANIMOUS-CONSENT REQUEST—S. 1618

Mr. LUGAR. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of Calendar Order No. 347, Senate bill 1618, a bill to provide uniform standards for the award of punitive damages for volunteer services.

Mr. EXON. Mr. President, on behalf of a Democratic Member, I object.

The PRESIDING OFFICER. Objection is heard.

AUTHORIZATION FOR THE 1996 SPECIAL OLYMPICS TORCH RELAY ON THE CAPITOL GROUNDS—HOUSE CONCURRENT RESOLUTION 146

AUTHORIZATION TO USE THE CAPITOL GROUNDS FOR THE ANNUAL NATIONAL PEACE OFFICERS' MEMORIAL SERVICE—HOUSE CONCURRENT RESOLUTION 147

Mr. LUGAR. Mr. President, I ask unanimous consent that it be in order for the Senate to proceed, en bloc, to the consideration of the following concurrent resolutions just received from the House: House Concurent Resolution 146 and House Concurrent Resolution 147.

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

The concurrent resolutions are agreed to, en bloc.

So the concurrent resolutions (H. Con. Res. 146 and 147) were agreed to.

Mr. LUGAR. Mr. President, I move to reconsider the vote and to lay that on the table.

The motion to lay on the table was agreed to.

NATIONAL ROLLER COASTER WEEK

Mr. LUGAR. Mr. President, I ask unanimous consent that the Senate

proceed to the immediate consideration of Senate Resolution 235, submitted earlier today by Senator THURMOND.

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

The clerk will report.

The legislative clerk read as follows:

A resolution (S. Res. 235) to proclaim the week of June 16 to June 22, 1996, as "National Roller Coaster Week."

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. LUGAR. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and any statements relating to the resolution appear at the appropriate place in the RECORD.

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

So the resolution (S. Res. 235) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

S. RES. 235

Whereas, the roller coaster is a unique form of fun, enjoyed by millions of Americans, as well as people all over the world;

Whereas, roller coasters have been providing fun since the 15th century;

Whereas, in 1885, an American named Phillip Hinckle invented a steam-powered chain lift to hoist coasters to new heights and new downhill speeds;

Whereas, advances in technology and a renewed interest in leisure and recreation have meant a resurgence for roller coasters;

Whereas, engineers working with computers have been able to create the safest, most thrilling rides ever;

Whereas, there are an estimated 500 roller coasters worldwide, and more than fifty new projects underway in 1996;

Whereas, the world's oldest existing roller coaster, Leap-The-Dips, is located at Lakemont Park in Altoona, Pennsylvania, and is currently being restored;

Resolved, That the Senate proclaims the week of June 16 through June 22, 1996, as "National Roller Coaster Week".

UNANIMOUS-CONSENT AGREEMENT—CONFERENCE REPORT ACCOMPANYING H.R. 1561

Mr. LUGAR. Mr. President, I ask unanimous consent that the majority leader, after consultation with the Democratic leader, may turn to the consideration of the conference report to accompany H.R. 1561, the State Department reorganization bill, and, further, that the reading be deemed waived, and there be a time limitation of 10 hours for debate, with the time divided and controlled as follows: 2 hours under the control of Senator HELMS, or his designee; 2 hours under the control of Senator KERRY, or his designee; 2 hours under the control of Senator NUNN; 3 hours under the control of Senator JOHNSTON; 1 hour under the control of Senator FEINSTEIN; provided further, that upon the expiration or yielding back of all time, the Senate proceed to vote on the adoption of the conference report with no intervening action or debate.

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

ORDERS FOR THURSDAY, MARCH 28, 1996

Mr. LUGAR. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until the hour of 9 a.m. on Thursday, March 28; further, that immediately following the prayer, the Journal of the proceedings be deemed approved to date, no resolutions come over under the rule, the call of the calendar be dispensed with, the morning hour be deemed to have expired, and the time for the two leaders be reserved for their use later in the day, and the Senate immediately resume consideration of the farm conference report under a previous consent agreement.

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

UNANIMOUS-CONSENT AGREEMENT—H.R. 1296

Mr. LUGAR. Mr. President, I further ask unanimous consent that following the conclusion of debate on the farm conference report, the conference report be laid aside, and that there then be 30 minutes for debate prior to the cloture vote, to be equally divided in the usual form, and following that debate, the Senate proceed to vote on adoption of the farm conference report, to be followed immediately by the cloture vote with respect to the Kennedy amendment, with the preceding all occurring without any intervening action or debate, and that the mandatory quorum under rule XXII be waived.

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

PROGRAM

Mr. LUGAR. Mr. President, for the information of all Senators, there will be a vote with respect to the farm conference report and a cloture vote with respect to the Kennedy amendment back-to-back, hopefully, by mid-morning. Also, the Senate is expected to consider the debt limit and the omnibus appropriation conference report prior to the close of business on Friday. The Senate could also be asked to resume the Presidio legislation. In addition, it is hoped that the Senate could also pass the charities bill, S. 1618. Therefore, votes can be expected throughout Thursday's and Friday's session of the Senate.

Mr. President, I add that, given the hour and the amount of time expired, it would appear that the votes with regard to the farm conference report are likely to come after noon, given the current situation. So Senators might be advised of that change, given the time that has expired this evening.

ORDER FOR ADJOURNMENT

Mr. LUGAR. Mr. President, If there is no further business to come before the Senate, I ask that the Senate stand in adjournment under the previous order following the remarks of Senators PRESSLER and GRASSLEY.

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

The chair recognizes the Senator from South Dakota.

Mr. PRESSLER. I thank the Chair. Let me say that my intention is to speak briefly on the farm bill, and then I want to introduce a piece of legislation, if I can do that as in morning business. The total time I will consume will be about 5 minutes.

The PRESIDING OFFICER. The Senator may proceed.

THE FARM BILL

Mr. PRESSLER. Mr. President, I am voting for the farm bill. I support the freedom-to-farm concept. This is not a perfect farm bill, but I find it somewhat ironic that some of my colleagues are voting against it, yet, urging the President to sign it, and then going out and criticizing it. It would be better to improve it and to be constructive.

Our farmers need a farm bill passed now. Many of them have already gone to the fields in our Nation. In South Dakota, they are meeting with their bankers, making their plans. It is time for us to pass a farm bill.

Mr. President, for years, we have had all this regulation and paperwork in agriculture. I come from a farm. I am a farmer. Last year, deficiency payments were sent out to the farmers. Then the commodity prices were high enough that the deficiency payments were sent back to the Department of Agriculture. All this requires a great deal of paperwork, and it costs the taxpayers a lot.

Let me commend Senator LUGAR and the managers of the farm bill, and Senator GRASSLEY and others, who have brought us a farm bill that will not only save taxpayers money, but will also help our Nation's farmers and ranchers.

Mr. President, let me say that I think the most important farm bill besides this is a balanced budget because, if we have a balanced budget, we will be able to export our commodities and the commodity prices will be high enough. Because of a balanced budget we will have low interest rates and a stable dollar and high exports. That is

what farmers and ranchers really want. They do not seek handouts. They want good prices on the world market. And they are there for us if we take advantage of it.

So there are many improvements we could make in this farm bill the next year or the year after. But let us pass it now. This is the best deal we can get at this time. If somebody had a better one, they should have brought it up.

Mr. President, I ask unanimous consent to speak as if in morning business for 3 minutes for the purpose of introducing a bill.

The PRESIDING OFFICER (Mr. LUGAR). Without objection, it is so ordered.

Mr. PRESSLER. I thank the Chair.

(The remarks of Mr. PRESSLER pertaining to the introduction of S. 1647 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. PRESSLER. Mr. President, I thank the Chair. I thank my colleague from Iowa and Indiana and congratulate both of them for their work on the farm bill which was very outstanding.

I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, first, just one sentence to compliment the now Presiding Officer, the Senator from Indiana for his leadership on getting the farm bill passed. I am going to speak tomorrow on the farm bill. This evening, in morning business, I am speaking on the subject of the drug problem.

THE CIRCLE OF HURT

Mr. GRASSLEY. Mr. President, we have heard a great deal on this floor about the problem of drugs in this country. Senator HATCH, Senator FEINSTEIN, Senator MOYNIHAN, and others, have spoken eloquently about the personal and societal costs that we bear because of illegal drug use. Add in the abuse of legal drugs in this country and the costs are staggering.

The record of the harm done is clear. The facts accumulate in depressing measure, detailing the damage done to individuals, to families, to communities, and to our civic life. Drugs destroy a person's capacity to live a decent life. They contribute to a widening circle of hurt that goes far beyond any individual choice to use drugs.

Like a stone dropped into a pond, the ripples move outward in an ever-widening circle. The result is an arc of pain and loss that is no respecter of social position, education, age, race, or location. Nothing brought this home to me more forcefully than a letter I received recently from a constituent. A constituent whose family has borne the brunt of what illegal drug use truly means. We can pile up facts and figures. We have the numbing statistics. But these cold, sterile numbers do not bring home to us the true meaning of what is involved. In order to understand the circle of hurt, let me share with you this story. As the dismaying figures on family violence, crime, and drug-addicted babies only too clearly show, this record is not unique.

Although is it not unique, it is, nevertheless, a story whose very prevalence is part of the harm done everyday by illegal drug use.

Kay and Jim Degrado of Marshalltown, IA, a community of 25,000, know firsthand what the facts and figures mean. Some years ago, their son began experimenting with drugs at 9 and was an addict by 13. Nothing that these good people could do made a difference. They watched as their son slowly sank into addiction and a world of violence, drug dealing, and abuse. As with many families, they were unprepared to deal with the problems. Their son became an addict and a dealer.

At 26, during his second treatment episode, he met a 22-year-old prostitute and crack addict. They subsequently moved in together after they were expelled from the treatment program. In addition to living together, they also began dealing together. They had an 800 number, beepers, and a separate apartment to deal from. Sales helped them maintain a $1,500 a day habit. This in a town of only 25,000. It was at this time that the couple learned that they were to have a baby, the woman's second. The first child was raised in a drug-addicted household, with all the emotional scars that involves. The second child, Tomi, now four, suffered a worse fate. She was born addicted.

As the Degrados learned, drug use damages the unborn child in profound ways. In ways that endure for a lifetime. Their granddaughter, young Tomi, was born with multiple problems. She has difficulty sleeping. She is averse to being touched. She's irritable and has a short attention span. In addition, she has difficulty swallowing, a common feature of drug-affected children. At four, she still must receive supplemental food and medication through a feeding tube in her abdomen. She is unable to use a spoon, lacking the coordination. The grandparents have adopted the child—after years of effort—and can give Tomi a loving home. But they can never heal the hurt. And there are many Tomis in this country.

According to some estimates, as many as 100,000 or more such babies are born every year to addicted mothers. The disabilities are lifelong. Tomi requires constant medical attention. And she has learning disabilities that will affect her as long as she lives. But this is not the end of the story. As with Tomi's parents, many addicts have more than just one child. These children are born addicted. Or they come into drug-using homes where physical and sexual abuse are common. Tomi has an older half-sister, and her mother is pregnant again.

Fortunately, the Degrados' son is in treatment, again, after two suicide attempts and numerous relapses. He visits his daughter but has not taken an active role in her life. It is still unclear if he will stay clean and sober. If he does, and I wish him well, it will come at great effort, one that will occupy him for the rest of his life.

And the cost? The monetary costs, of course, have been enormous. But that is only a small part of the expense. From the seemingly individual choice to use drugs, the Degrados' son, destroyed his own life. He brought pain and suffering to his family. It is a pain that still remains. In addition, he also fathered a child born with lifelong disabilities. Pushed drugs to others. And engaged in numerous crimes. From his one act, a decision to use drugs, the circle of hurt spreads outward in ever-widening arcs. That is the reality of drug use. The damage and harm are personal, immediate, and enduring.

Yet, what we hear from many these days—from some of our cultural and political elite—is that we should legalize such drugs. That we should make them widely available. The common argument is that we should not interfere with a personal choice. A choice which is, according to the argument, a victimless crime. No one is harmed. What a cruel and insensitive lie that is. No wonder so many decent people like the Degrados feel like the country, or its culture leaders, has taken leave of its senses.

And one finds the argument and its logical consequences increasingly prevalent. Recently, a member of my staff learned that a bookstore right here in the Washington area had a whole display on how to process your own drugs at home. The display was full of books on how to start your own drug business in the comfort of your living room. This in a store in a suburban shopping mall frequented by teenagers and families. This is reminiscent of the 1960's. That was the last time we flirted with the "drugs-are-OK-for-everybody" theme. But this is not the 1960's and I had hoped that we had learned something from our past. Seemingly not. At least not some.

Turn on MTV or listen to much of the popular music these days and you get the drugs-are-OK message. First, leading political figures and cultural gurus openly discuss the idea of making drugs readily available at over-the-counter prices. Second, newspaper editors flirt with the idea of legalization. Third, movies and TV shows are once again introducing drugs as okay into their plots. Fourth, many of our political leaders are sending confusing messages. So far, the most notable comment from the President on drug use

was, "I didn't inhale." Just think of the unfortunate signal that sends, however inadvertent. And fifth, one of the most remembered policy recommendations from this administration was the call by the Surgeon General for legalization.

Lately we have William F. Buckley, Jr., repeating the legalization theme. And he is in good, or rather, bad company. Some newspapers, magazines, and a variety of pundits have picked up the theme. This does not mean, however, that this is an idea whose time has come. All of this fulminating over the virtues of drugs or the harm caused by preventing people from self-administering deadly substances, is limited to a few, if well-financed, individuals. But their voice has a disproportionate access to the media. A media that then broadcasts and enlarges on the theme, making it seem more influential than it really is. Unfortunately, this posturing encourages young people to dismiss not only the harm that drugs cause but to question whether it is wrong to use drugs. And so, the hurt goes on.

After years of decline, after years in which teenage attitudes toward drugs was moving in the right direction, we now see dramatic reversals in teen drug use, heading back up. More disturbing, we see a decline in negative attitudes to drug use. We have not yet returned to the 1979 levels of abuse, but we have made notable gains in that direction. As recent studies show, an increasingly large percentage of high school kids now report frequent marijuana use. The age at which use is beginning is also dropping. Experts now recommend that we must begin our antidrug prevention message in grade school.

Meanwhile, the casualties mount. The most recent data, released by the drug czar's office, confirm—as if more confirmation was necessary—that drug use is on the rise, especially among kids. This is particularly true of marijuana use. As we learned to our regret, marijuana is a gateway drug for further substance abuse. Heroin use is also on the rise. And much of the West and Middle West face a growing problem of methamphetamine use—the so-called workingman's cocaine. This drug is responsible for dramatic increases in family violence, in violent crime, and in hospital emergencies. What the numbers tell us is a depressing story of returning drug abuse.

We are still dealing with an addict population created by the drugs-are-OK argument from the 1960's and 1970's. Our current hardcore addicts were the 15-, 16-, and 17-year-olds of then. Today we are putting our 12-, 13-, and 14-year-olds at risk. We are mortgaging their futures and the lives of everyone they touch. We are exposing them to a cycle of hurt and suffering. I can imagine few more irresponsible acts. The last time we did it unconsciously or by inattention. If we do this again, we can make no claim to ignorance. We cannot appeal to our innocence. What we do now, we do with full knowledge. We simply cannot let this happen again.

I would like to ask my colleagues to look at my remarks from the standpoint of it portraying the problem of drugs that a family in Iowa had, the Kay and Jim Degrado family of Marshalltown, IA. It tells a story about how early drug use of a child leads to greater and greater problems. It talks about crack babies, and in the case of this family a crack grandchild that has been adopted by this family—the problems that families get into down the road of time in prison; all the crime that comes from illicit drug use.

I compliment this family for sharing their story with me and the granting of permission to me to discuss this issue on the floor of the Senate.

THE TRICKLE DOWN DEFECT

Mr. GRASSLEY. Mr. President, I have had a number of things to say lately about leadership and moral posture. I have mentioned these issues several times on this floor in the past few days. I wish to draw the attention of my colleagues to an example of what a void in clear leadership and guidance means. It illustrates what we might call the trickle down defect.

When there is uncertain leadership, when leaders are unclear on their true intent, their irresoluteness trickles down. Nowhere is this effect easier to detect than in this administration's drug policy. From almost the first day of this administration there have been mixed signals and muddled directions about our drug policy. While the words have pointed in one direction, actions have gone off in every direction. The only thing that has been constant has been inconsistency.

One of the best examples of that was the President's move to fire most of the people in the drug czar's office just after his inauguration. That office was then not supported. The drug issue fell off the agenda. The President called "time out" in the war on drugs.

Lately, the administration is moving to restore personnel to the drug czar's office. I am sure there is no connection between that move and the fact that this is an election year. Miraculously and suddenly, the President has learned what the American people have known all along. One of the most important tools in fighting drug abuse among kids is to provide consistent leadership—to have a consistent message. At one time, we had that. The most remembered phrase from the years before Mr. Clinton was "Just say no." Unfortunately, we lost that message.

The most remembered phrase of this administration is, "I didn't inhale."

Today, a mixed and muddled message has trickled down through the bureaucracy. We have seen a falling off in effort. We have seen confused priorities. We have seen a decline in interagency coordination. We have not seen much in the way of leadership. What we have seen is rising drug abuse.

And, this lack of consistency has consequences. The latest example comes from just the past few days. The Centers for Disease Control, a Federal agency based in Atlanta and paid for by the taxpayers, cosponsored a conference this past weekend. The conference was held under the innocent enough title of "harm reduction." Unfortunately, that mild phrase conceals a bleak reality. Things are not always what they seem.

Many of the other cosponsors of the conference, such as the Drug Policy Foundation and the Lindesmith Center, are among the largest drug legalization lobbies in this country. The press release announcing the conference put out by the Drug Policy Foundation ends with a call, and I quote, "End the Drug War". The stated goal of these organizations is to get drugs legalized. The CDC, perhaps unknowingly, have associated themselves with this position. A position that is supposedly directly opposite of the administration's stated policy. What you have is a Government agency charged with dealing with controlling epidemics collaborating with those who want to legalize drugs, which would cause a major epidemic. This is a masquerade. But, it is clear that the CDC is confused about what our policy is. Confused about their role in supporting that policy. But it should not come as a surprise.

Mixed up and muddled. Confused signals and uncertain direction. Actions that belie statements. This has been the recent legacy. No wonder people are confused.

When these things happen, who is responsible? Who do we look to? You have to look to the people who set the course. Remember that the CDC comes under the Public Health Service, which works for the Surgeon General. And who was our last Surgeon General? Joycelyn Elders. Recall that she was the one who sounded the call for legalization in the first days of the Clinton administration. There was never any meaningful response. Certainly the decimated Drug Czar's office could mount no convincing reply. Unfortunately, Dr. Elders' remarks remain fixed in public memory. Everyone remembers her, who remembers anything said by the Drug Czar? Or the President?

We have seen lately a born-again drug policy from the administration,

the message is still unclear. Evidently, the CDC is still confused. But their confusion is no orphan.

When the message broadcast from the top is contradictory. When it is hedged with qualifiers. When the guidance is unclear, it should come as no surprise to find bungling at the bottom.

Here we have the Centers for Disease Control, part of our national effort to fight the war on drugs, lending its name and prestige against the war of drugs. The right hand of this administration does not know what the left hand is up to. Lack of leadership trickles down. Is it any wonder that teenage drug use is on the rise? Is it any wonder that kids are unclear on why it is both harmful and wrong to use drugs? When you do not know where you are going, is it any wonder that you get lost? The failure of leadership demands a high price.

ADJOURNMENT UNTIL 9 A.M. TOMORROW

The PRESIDING OFFICER. Under the previous order, and pursuant to the provisions of Senate Resolution 234, in memory of a great Senator and devoted friend of so many of us, the late Senator Edmund S. Muskie of Maine, the Senate stands adjourned.

Thereupon, the Senate, at 9:11 p.m., adjourned until Thursday, March 28, 1996, at 9 a.m.

HOUSE OF REPRESENTATIVES—*Wednesday, March 27, 1996*

The House met at 2 p.m. and was called to order by the Speaker pro tempore [Mrs. VUCANOVICH].

DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
March 27, 1996.

I hereby designate the Honorable BARBARA F. VUCANOVICH to act as Speaker pro tempore on this day.

NEWT GINGRICH,
Speaker of the House of Representatives.

PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Where there is no hope, our hearts are heavy; where there is no love, then evil thrives; where there is no faith, doubt increases; and where there is no vision, the people perish. Grant to us and to every person, O gracious God, the wisdom to discern and to accept Your gifts of faith and hope and love and, filled by Your spirit, may we be Your faithful people and You our God for ever and ever. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House her approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from New York [Mr. WALSH] come forward and lead the House in the Pledge of Allegiance.

Mr. WALSH led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

SUNDRY MESSAGES FROM THE PRESIDENT

Sundry messages in writing from the President of the United States were communicated to the House by Mr. Edwin Thomas, one of his secretaries.

RESIGNATION OF MEMBER AND APPOINTMENT OF MEMBER TO UNITED STATES-CANADA INTERPARLIAMENTARY GROUP

The SPEAKER pro tempore laid before the House the following resignation as leader of the House delegation to the United States-Canada interparliamentary group for the year 1996:

HOUSE OF REPRESENTATIVES,
Washington, DC, March 27, 1996.

Hon. NEWT GINGRICH,
Office of the Speaker, U.S. House of Representatives, Washington, DC.

DEAR MR. SPEAKER: Pursuant to my request, I am hereby resigning as the leader of the House delegation to the United States-Canada Interparliamentary Group for the year 1996.

Sincerely,

DON MANZULLO,
Member of Congress.

The SPEAKER pro tempore. Without objection, and pursuant to the provisions of 22 U.S.C. 276d, the Chair announces the Speaker's appointment of the following Member of the House to the United States delegation of the Canada-United States interparliamentary group: Mr. HOUGHTON, New York, chairman.

There was no objection.

APPOINTMENT AS MEMBER TO LIBRARY OF CONGRESS TRUST FUND BOARD

The SPEAKER pro tempore. Without objection, and pursuant to the provisions of section 1 of 2 U.S.C. 154, as amended, by section 1 of Public Law 102-246, the Chair announces the Speaker's appointment to the Library of Congress Trust Fund Board the following member on the part of the House:

Mrs. Marguerite S. Roll, Paradise Valley, AZ, to a 3-year term. There was no objection.

GO ORANGE

(Mr. WALSH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WALSH. Madam Speaker, I rise today to congratulate the Syracuse University Orangemen men's basketball team who are on their way to the final four in the Meadowlands in East Rutherford, NJ, this weekend.

In central New York, we look forward to cheering them on in their third final four appearance in school history, the second under 20-year head coach Jim Boeheim—and the first since SU was denied the national championship by a single basket in 1987.

As I boast, I wish also to congratulate all the teams who have played in the National Collegiate Athletic Association's tournament, especially the University of Massachusetts, Kentucky and Mississippi State. The other three schools in the final four are State schools. Syracuse is the only one that bears the name of a city. So there is indeed a special feeling in my hometown for this team. At this moment there is a huge pep rally occurring in front of city hall and lots of orange everywhere.

No team has come further than the SU Orangemen. Coach Boeheim has once again successfully inspired and challenged an extraordinary group of young men.

They have fought from the first whistle, having been unranked in the preseason, to get here today, to play one more weekend. Two more games, we hope, in an incredible season.

We in Syracuse know them to be a great group of student athletes who have made us all very proud. Win or lose, the Orangemen of 1995-96 will be remembered with fondness for their sportsmanship and their heart. They have given many central New Yorkers a warm feeling after a very long winter.

Congratulations to all, and go Orange.

PASS A CLEAN BILL TOMORROW

(Mrs. KENNELLY asked and was given permission to address the House for 1 minute.)

Mrs. KENNELLY. Madam Speaker, the Kennedy-Kassebaum bill has a simple premise: If you leave or lose your job, you should not lose your health insurance because of a preexisting health condition. As introduced in the House, the bill is only 65 pages long. Here is a copy of it.

However, the bill that will come to the House floor tomorrow is more than 220 pages long. Here is a copy of it. The bill adds 10 separate provisions to the health insurance portion of the bill.

Some of these additions are good ideas, but several are very controversial, such as tax breaks for medical savings accounts and exempting certain health plans from State insurance regulation. I am worried these additions could kill a bill that guarantees Americans the right to have portable health insurance.

Madam Speaker, Republicans in the Senate say they want a clean bill.

Democrats in the House say they want a clean bill. And the President says he wants a clean bill. I hope the majority in the House will now join us in an effort to pass a bill without any special interest addons. Let us not load on so much baggage that we bring the whole plane down.

RAISING TAXES IS THE WRONG WAY TO GO

(Mr. NORWOOD asked and was given permission to address the House for 1 minute.)

Mr. NORWOOD. Madam Speaker, not so long ago, the President stood before us in this very Chamber and declared that "the era of big Government is over." His latest budget tells a different story, particularly with taxes. The President wants to raise taxes immediately and phase in a tax cut—that can be yanked if deficit targets are not met. In other words, the President wants a permanent tax increase and a temporary tax cut.

Madam Speaker, will liberal Democrats ever learn that smaller Government means less taxes? It is not enough to say you want to end big Government, you have to back it up with actions. If the President really wants to end the era of big Government, he needs to stop feeding the beasts. Raising taxes is simply the wrong way to go. We need to reduce our spending and reduce the tax burden on the American people—only then will the era of big Government truly be over.

TRIBUTE TO SENATOR ED MUSKIE

(Mr. BALDACCI asked and was given permission to address the House for 1 minute.)

Mr. BALDACCI. Madam Speaker, I was deeply saddened to learn yesterday of the death of Senator Ed Muskie. As a new Member of Congress from Maine, I have been privileged to call on Ed Muskie for advice and wisdom.

Ed Muskie was a leader for Maine and a statesman for the Nation. He never lost sight of his roots, nor wavered from his principles.

The people of Maine and the Nation are indebted to Ed Muskie for his passionate work on a wide range of issues. His vision in developing environmental legislation, especially the Clean Air and Clean Water Acts, is a legacy which will be recognized and honored by generations to come.

We can all learn much from the life that Ed Muskie led. I will never forget the advice that he gave to me shortly before I took office. He said, "Be yourself, work hard, and tell the truth." Those simple principles guided his life, and are what I strive to live up to every day.

Senator Muskie's devotion to Maine and his dedication to improving the quality of life for all Americans will long be remembered and appreciated. I know that my colleagues join me in expressing our deepest sympathy to Ed Muskie's wife, Jane, and the rest of his family.

CHINA ARMING IRAN

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Madam Speaker, China just sold patrol boats armed with state-of-the-art cruise missiles to Iran. Let me repeat. China just sold cruise missiles to Iran.

Now, the last time I checked, Iran is still listed as a terrorist nation by America, and, No. 2, the leaders of Iran refer to Uncle Sam as "the Great Satan."

This is unbelievable. China continues to arm, aid, and abet Iran, America's No. 1 enemy, and after all of this, the Congress of the United States rewards China with most-favored-nation trade status. Beam me up, Madam Speaker.

Our policy with China not only kills American jobs, it destabilizes the world, threatens American security, and people around here are granting them most-favored-nation trade status. I suspect today that not only are there a lot more people in Washington, DC, smoking dope, they are inhaling every single day.

WHAT IS IN STORE FOR AMERICA?

(Mr. ENGEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ENGEL. Madam Speaker, our Republican friends are at it again. Last year they spent the whole year trying to decimate Medicare and Medicaid and hurt our senior citizens, and, thankfully, at least for now, we were able to stop them.

This year what do they have in store for America? The largest education cuts in the history of the United States. They would deny our schoolchildren the ability to compete in this global economy.

Let us look at what the $3.3 billion in education cuts amount to. Sixty-five million schoolchildren will be affected, basic reading and math skills cut, safe and drug-free schools cut, vocational education cut, adult education cut, title I education cut, the summer youth and employment program eliminated.

Not only do the Republicans not want to teach our children, they do not want to give them summer jobs. I guess they think they are better off hanging out on street corners than earning a few dollars to help with their families. This just shows once again the extreme, mean-spirited Republican agenda of sticking it to middle-class families.

Last year it was Medicare and Medicaid. Now it is education. What comes next?

OIL IMPORTS A THREAT TO U.S. NATIONAL SECURITY

(Mr. SMITH of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of Texas. Madam Speaker, independent oil and gas producers are the mainstay of our domestic energy industry. In fact, independents produce about 64 percent of the natural gas in the country and about 39 percent of the crude oil.

But this great industry is struggling. Imports of both oil and natural gas are on the rise, and employment is declining. The United States now imports over half of our annual demand.

Our dependency on foreign oil costs about $60 billion annually and makes up a substantial part of our trade deficit.

Just over a year ago, President Clinton signed a report issued by the Department of Commerce saying that increasing oil imports are a threat to national security. But even as the President felt the pain of the oil and gas industry, he offered no plans to end that pain.

In a survey released by the Sustainable Energy Budget Coalition on January 16, it found that "three-quarters of the American voters believe we need to do something to reduce dependency on foreign oil."

Public servants must do more than talk. They must act to lower taxes, reduce regulation, and lower the burden of government on our oil and gas industry. As we approach the next century, we must, once again, make a domestic oil and gas industry a priority.

KENNEDY-KASSEBAUM HEALTH CARE REFORM EFFORT

(Mr. PALLONE asked and was given permission to address the House for 1 minute.)

Mr. PALLONE. Madam Speaker, health insurance reform is long overdue. As we know, fewer Americans are able to obtain health insurance now, and the cost of that health insurance keeps going up. So my colleague, the gentlewoman from New Jersey, Mrs. ROUKEMA, had a very good idea, which is shared in the Senate by Senator KASSEBAUM and Senator KENNEDY on a bipartisan basis, to put forth a bill in this House that would make it easier for people to take health insurance from one job to another. We call that portability. We also try to make it easier for people who have preexisting conditions or perhaps were disabled with some sort of health disorder, that they would be able to buy health insurance.

We are all supportive of this. The Democrats, over 170, have said that they support it, but the Republican leadership here is trying to load down this bill with all kinds of extraneous material in terms of the best example is medical savings accounts that will actually drive up the cost of health insurance for the average person and make health insurance less affordable.

It is time now that we got together on a bipartisan basis and passed the Kennedy-Kassebaum-Roukema bill to make health insurance more affordable and make it possible for more people to obtain health insurance.

□ 1415

TIME TO STOP PLAYING POLITICS WITH OUR CHILDREN'S FUTURE

(Mr. NADLER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. NADLER. Madam Speaker, the Republican majority's political gamesmanship knows no bounds—even when it comes to defaulting on the most important obligation of this House, providing for our children's future.

Because of Republican intransigence on the fiscal year 1996 budget, which is now almost half a year overdue, local schools have been severely injured, now knowing how much Federal aid they will receive, not knowing how many teachers they can hire, how many books they can buy, what kind of science programs they can run.

Not only do the Republicans think it is a good idea to slash education funds to pay for a tax cut for the wealthiest Americans, but now their irresponsibility is crippling local school boards' ability to spend whatever money we do send them.

Let's stop shooting dice with our children's futures. Let's fund the Government for the second half of the fiscal year and commit ourselves to supporting the President's proposal to increase funding for such crucial educational programs as title I for basic reading, writing, and math skills, Pell grants, safe and drug free schools, and the School to Work Program.

WHO IS FOR KIDS, AND WHO IS JUST KIDDING?

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SCHROEDER. Madam Speaker, the question of who is for kids and who is just kidding sounds very playful, but this is not a playful question to ponder. This is really about the survival of this great Republic which we are so proud of, because we need to know which Members of this body are not for kids. If they are not for kids, they are going right at this Nation's future.

I went to public school, my husband went to public school, both of our children went to public school, my mother taught in public school. Public schools have been the foundation of the future of this Nation. I am appalled that the Republicans in this body have put the biggest cuts in education we have ever seen at a time when we all agree that our schools need more help, not less.

If Members think that our math scores are high enough so we can pull back our funding to help math, if they think our basic reading skills are good enough so we can pull back on math, if Members think our classes are too small and we ought to make them bigger, and if they think it is a good idea to surrender on the drug war in the schools and not make them safe, then Members will love their side of the aisle. I do not. I think it is time we all wake up and fight back.

PUT OUR CHILDREN FIRST AND VOTE TO FUND EDUCATION

(Ms. DELAURO asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. DELAURO. Madam Speaker, on Monday I visited schools and met with parents in my district. I visited a DARE program in Stratford, CT, where a police officer works with fifth graders to keep kids off drugs. I attended an awards ceremony where young people were recognized for their work to keep their peers off drugs and alcohol. That evening, I organized a parents summit where about 100 parents gathered to discuss the challenges that they face trying to raise good kids today.

Let me share the comments of one parent. She said: "I feel like a boxer who is down and the count is 8. My head is down and I am dripping blood from every part of my body. The schools need to help teach the basics," she said. That is not what House Republicans are proposing. They want to cut basic math skills, basic reading skills.

The families that I met with do not believe that this Congress is on their side. This week we will have an opportunity to prove that we really want to help working families. Once again, I urge Speaker GINGRICH and the Republican leadership to reverse course, stand with our parents and our kids, and vote to fund education. Let us put our children first.

IN SUPPORT OF THE WOMEN'S HEALTH EQUITY ACT

(Ms. EDDIE BERNICE JOHNSON of Texas asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. EDDIE BERNICE JOHNSON of Texas. Madam Speaker, I rise today in support of the Women's Health Equity Act and, in particular, in support of the osteoporosis provisions of the bill. Most women find out that they have osteoporosis when it is too late, after a bone fracture or a curvature of the spine has occurred. The real tragedy is that for many women the disease is preventable and treatable. But this is a disease that has an underlying condition that affects 25 million Americans, most of them, 80 percent of them, women. All of us lose bone mass as we age, but people with osteoporosis lose an excessive amount, leading to weak and brittle bones. As I just said, 80 percent of those suffering from osteoporosis are older women, and a woman's risk for hip fracture alone is now equal to the risk of developing breast and ovarian cancer.

It is time for us to give a little bit more attention to this disease, Madam Speaker.

CONGRESS, THE ADMINISTRATION, AND INDUSTRY MUST WORK TOGETHER TO PROVIDE STABILITY TO OUR DOMESTIC OIL AND GAS PRODUCTION

(Mr. BREWSTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BREWSTER. Madam Speaker, domestic oil and gas production is critically important to our Nation's economy and national security. Just 5 years after fighting a war in Iraq, our Government has yet to take a single substantive step toward reforming restrictive regulations on our domestic energy industry.

Since the gulf war, our dependence on Middle Eastern oil has grown to the point where more than half of our country's oil and gas consumption is from imports. We cannot allow this situation to continue.

Working together, Congress, the administration, and industry must pass and enact legislative and regulatory initiatives which will provide stability to this extraordinarily important segment of our Nation's economy.

As you know, U.S. relations with our Middle East oil trading partners historically have been unstable. However, the United States does have at least one reliable trading partner. Petroles de Venezuela, the owner of Citgo, has been supplying oil and product to the United States for 70 years—through World War II and the Arab oil embargo.

While maximizing our domestic resources, we should also encourage trading with reliable neighbors and allies such as Venezuela.

THE WOMEN'S HEALTH EQUITY ACT OF 1996

(Ms. SLAUGHTER asked and was given permission to address the House

for 1 minute and to revise and extend her remarks.)

Ms. SLAUGHTER. Madam Speaker, I rise today as Chair of the Women's Health Task Force of the Congressional Caucus on Women's Issues. On behalf of the caucus, I have the honor of introducing the Women's Health Equity Act of 1996. A momentous legislative initiative, the Women's Health Equity Act is an omnibus bill comprised of 36 separate pieces of legislation targeting women's health.

The first Women's Health Equity Act was introduced in 1990 as a result of a GAO report that documented of widespread exclusion of women from medical research and energized caucus and women around the Nation to action on women's health issues.

In the 6 years since, we have accomplished a great deal. We have achieved greater equity in both women's health research funding and inclusion of women in clinical trails. The increased funding for breast cancer has resulted in the discovery of the BRCAI gene-link to breast cancer 18 months ago. Since then, it has been found that the BRCAI gene seems to inhibit the growth and formation of tumors and may provide therapy for both breast and cervical cancer.

This news is miraculous and is very gratifying to the caucus because it was our initiative that resulted in the increased funding. But, our responsibility does not stop there. We must assure that social policy keep pace with advances in biomedical research. As a part of the Women's Health Equity Act, I have introduced legislation that would do just that.

H.R. 2748, The Genetic Information Nondiscrimination in Health Insurance Act prohibits insurance providers from:

First, denying or canceling health insurance coverage; second, varying the terms and conditions of health insurance coverage on the basis of genetic information; third, requesting or requiring an individual to disclose genetic information; and, fourth, disclosing genetic information without prior written consent.

The Women's Health Equity Act's initiative to increase funding for breast cancer research has resulted in discovery of potentially lifesaving genetic information and therapy. As therapies are developed to cure genetic diseases, and potentially to save lives, the women and men affected must be assured access to genetic testing and therapy without concern that they will be discriminated against. As legislators, I believe it is our responsibility to ensure that protection is guaranteed and I hope my colleagues will join me in that endeavor.

SPECIAL ORDERS

The SPEAKER pro tempore (Mrs. VUCANOVICH). Under the Speaker's announced policy of May 12, 1995, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

INTRODUCTION OF HPV RESOLUTION

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Connecticut [Ms. DELAURO] is recognized for 5 minutes.

Ms. DELAURO. Madam Speaker, I rise today to announce and celebrate the introduction of the Women's Health Equity Act of 1996. Included in the omnibus legislation are two bills that I have authored, the HPV Infection and Cervical Cancer Research Resolution, which I will introduce today, and the Equitable Health Care for Neurobiological Disorders Act of 1996. Both measures will enhance the length and quality of life for women in this country, and should be enacted by this Congress.

First, I am proud to introduce the HPV Infection and Cervical Cancer Research Resolution. This vital legislation will speed the detection and diagnosis of cervical cancer, and will, in fact, help to save women's lives. Early detection is the most effective method of stopping this killer of women. I know. I am a survivor of ovarian cancer, and early detection saved my life.

My measure expresses the sense of Congress that the National Cancer Institute and the National Institute of Allergy and Infectious Diseases should conduct collaborative basic and clinical research on the human papilloma virus [HPV] diagnosis and prevention as an indicator for cervical cancer.

Approximately 16,000 new cases of cervical cancer are diagnosed each year, and about 4,800 women die from this disease annually. However, if cervical cancer is detected while in its earliest in situ state, the likelihood of survival is almost 100 percent. HPV is a known risk factor for cervical cancer. Of the more than 70 types of HPV that have been identified, two types, types 16 and 18 in particular, have a strong linkage to cervical cancer.

With further study of the natural history of HPV and its association to the development of cervical cancer, HPV testing may prove to be an effective tool to aid the early diagnosis of this deadly disease. Therefore, it is appropriate to recommend basic and clinical research to determine how to utilize this data in the screening of women in clinics and hospitals across the country. My legislation will bridge the gap between new scientific discoveries about the linkage of HPV with cervical cancer and practical application of that knowledge by physicians and qualified health specialists in local communities.

The legislation has received the endorsement of the American Social Health Association. In addition, I am proud to include my bill in the Women's Health Equity Act of 1996.

In addition, I have introduced H.R. 1797, the Equitable Health Care for Neurobiological Disorders Act, into the Women's Health Equity Act of 1996. This legislation requires nondiscriminatory treatment of neurobiological disorders in employer health benefit plans. Under my bill, insurance coverage must be provided in a manner that is consistent with coverage for other major illnesses. Neurobiological disorders, include affective disorders like major depression, anxiety disorders, autism, schizophrenia, and Tourette's syndrome.

Currently, in short, individuals with neurobiological disorders receive much less insurance coverage than illnesses such as cancer, heart disease, or diabetes. This in equality contributes to the myth that such disorders are not physical illnesses and somehow they are the fault of the patient. For the individuals and the families affected by these disorders, the ordeal of coping with the disease is often compounded by severe financial burdens. My legislation recognizes the physical basis for many mental disorders, and requires their equal health coverage.

Just as the Kennedy-Kassebaum-Roukema health insurance reform bill addresses the need to ensure access to health care for Americans who change jobs, my bill ensures access to health care for Americans who suffer from mental disorders.

□ 1430

Both job portability and comprehensive coverage are key access issues in the health reform discussion. Without comprehensive coverage or health insurance portability, millions of Americans will be forced to seek treatment in expensive health care settings, like emergency rooms, or drain other social service institutions.

Mental disorders severely impact the health and the quality of life for millions of women throughout the Nation. Clearly, the equitable insurance coverage for mental disorders is an issue for all of us in society, as it is a women's health concern, as well.

Treatments for mental illnesses like depression exist and have a very high rate of success; therefore, it is essential that women suffering from neurobiological disorders have access to the care that they need.

Madam Speaker, I am proud to announce the introduction of these two bills. I urge my colleagues to cosponsor and enact the omnibus bill.

STATUS OF THE DRUG WAR

The SPEAKER pro tempore (Mrs. VUCANOVICH). Under a previous order of the House, the gentleman from Florida [Mr. MICA] is recognized for 5 minutes.

Mr. MICA. Madam Speaker, I come before the House this afternoon really concerned about a report that has now been released to the Congress. It is the National Drug Policy: A Review of the Status of the Drug War.

Madam Speaker, I serve on the Committee on Government Reform and Oversight, and this product is from our subcommittee, which I also serve on, which is the Subcommittee on National Security, International Affairs, and Criminal Justice. This report should be required reading for every Member of Congress, should be required reading for every citizen of the United States, and it should be required reading for everyone who is involved in the media of the United States.

This report details a history of total failure of our Nation's drug policy, and we see that decline almost immediately the moment that President Clinton took office. This is one of the most startling reports to ever be produced by the Congress, and I hope it gets the attention of every Member of Congress and every parent and everyone in the media.

What it does is, it in fact outlines a policy of national disaster. President Clinton started this when he dismantled the drug office, and did not make drug prevention and attacking the drug problem a priority of this administration.

Madam Speaker, when he talked about cutting the White House staff, he in fact cut 85 percent of the White House drug policy staff, and that is where the cuts came in. That is where the attention was not focused. Then he appointed Joycelyn Elders, who made drugs and drug abuse a joke and sent a mixed message. It was not the message of "just say no," it was the message of "just say maybe," and this report details the disaster that that policy has imposed on this Congress and on the Nation and our children.

Under President Clinton's watch, listen to this, drug prosecution has dropped 12.5 percent in the last 2 years. You have heard the comments about the judiciary he has been appointing and their decisions as far as enforcement, which have made enforcement and prosecution a joke in this country.

Madam Speaker, let me tell you the details of what this report is about and how it is affecting our children. Heroin use by teenagers is up, and emergency room visits for heroin rose 31 percent between 1992 and 1993 alone. In less than 3 years, the President has destroyed our drug interdiction program, and we know that cocaine is coming in from Bolivia, Peru, and Colombia, and transshipped through Mexico, which he recently granted certification in the drug certification program to.

What did we do with the drug interdiction program? We basically dismantled it. What are the results, again, with our children? Juvenile crime, in September 1995 the Justice Department's Office of Juvenile Justice and Delinquency Prevention reported that, now listen to this, and this is from the report: after years of relative stability, juvenile involvement in violent crime known to law enforcement has been increasing, and juveniles were responsible for about one in five violent crimes.

We see what this failed policy of this Clinton administration has brought us. Juvenile use and casual drug use in every area, marijuana, cocaine, designer drugs, heroin. Every one of these areas is dramatically off the charts, and it is the result of a failed national drug policy, and the responsibility and the trail to responsibility leads right to the White House.

Let me say finally that even the media coverage of this situation is terrible. It is a national disgrace that the media is not paying more attention, that they in fact put on one antidrug ad per day in markets and the Federal Government controls the airwaves, so the media should have as much responsibility for getting the message out, the message of this disaster created by this administration, and should begin a policy of education.

Finally, the President's policy, every standard, including drug treatment, is a disaster, and I will detail this further in another special order.

WOMEN'S HEALTH ISSUES

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Colorado [Mrs. SCHROEDER] is recognized for 5 minutes.

Mrs. SCHROEDER. Madam Speaker, I take the floor first of all to say, in this month of women's history, how pleased I am that the President has made more history for women today. I thought the newspaper article was very, very exciting to talk about how the President has nominated the first woman to the rank of 3-star general. She is in the Marines, Maj. General Carol Mutter, and her wonderful motto is "perseverance pays." We salute her, and we thank the President for moving her forward, and I think all of our foremothers would be proud.

But we heard many other Congresswomen take the floor today and talk about the Women's Health Equity Act. The one thing that Congresswomen have the right to make a victory lap about is the progress that we have made on women's health in this body.

If the Congresswomen had not been here, believe me, it would not have happened, because when we first got into this they were even doing breast cancer studies on men. They had no women in any studies, no women in the aging studies, no women in any studies. Basically the Federal Government's message to women was, we may as well go see a veterinarian, because what our own doctors got from Federal studies was really very little. They had to take studies done on men and then try and see if it distilled and was applicable to women.

We got all of that changed. After prior vetoes and everything else, we finally not only got it passed, but a President who would sign it and a lot of it on board. But we are still just beginning. Unfortunately, in this body they tend only to see women's health as circling around reproductive issues and breast cancer. Those are both very important key issues, but there are any number of health issues that affect women that we have just begun to tap.

Starting in 1990, we put together different bills that all of us had dealing with different issues on women's health and we put them in one bill called the Women's Health Equity Act. Then we all cosponsored it together and pushed as much of it as we could.

This year there are 36 bills in there, and it deals with an awful lot of the things still on the table that we have not dealt with, everything from eating disorders, which affect women much more severely than men, all the way through to female genital mutilation, which this body has still refused to deal with, even though our European countries and other countries have, and there are all sorts of international bodies crying out, saying this is a human rights violation and that we should make it a felony for people to move to this country as immigrants and bring those cultural things with them.

I do not want to see female genital mutilation in this country and I hope every American agrees, and I cannot understand why this body will not move on it. But to still think we have got 36 bills of that wide a range that we have reintroduced, that are out there, that we are still going to keep trying to move before we are anywhere close to having parity with where men have been in all the health care issues.

Our point has always been, this is Federal money we are talking about, Federal money that goes to research and Federal money that goes to services, and they always collected the same tax dollars for women they did for men. No one ever said to women, "We'll leave you out of the research and we won't give you any services, but don't worry, we'll charge you lesser taxes." Maybe we would negotiate if they did that, but they never did. They charged us the same and then proceeded to leave us out of the research and cut us our of the services.

What we are trying to do is reclaim this, and the goal of the Congresswomen has been to try and know as much about women's health as we now know about men's health by the end of this century, so that we start on an equal health footing when we begin the next century. That is getting tougher

and tougher to do, because over and over again the extremists in this body have turned around many of the gains that we are making. They turn them around daily. Today we will probably see another turnaround as we watch the first criminalization of a medical procedure that has ever happened in this body.

When we see these things happening to women's health, watch out. Yes, we should take a victory lap for what we have gained in information on osteoporosis, on breast cancer, on many of the things that we have gotten passed, gotten funded, and gotten out there, and the fact that we have gotten women into these research models so we will know much more when those different programs are done and those research projects are finished. But we are not there yet. We are not there yet. It is very easy to deny us getting to that goal of equal information by the year 2000, and it is also very easy for them to push back all the progress we have made, So cheer, but be alert.

SUPPORT H.R. 1833, PARTIAL-BIRTH ABORTION BAN ACT OF 1995

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

Mr. CANADY. Madam Speaker, today we will consider a bill that deals with a hard truth. H.R. 1833 addresses the ugly reality of partial-birth abortion. While every abortion sadly takes a human life, the partial-birth abortion method takes that life as the baby emerges from the mother's womb.

Partial-birth abortion goes a step beyond abortion on demand. The baby involved is not unborn. His or her life is taken during a breach delivery. A procedure which obstetricians use in some circumstances to bring a healthy child into the world is perverted to result in a dead child. The physician, traditionally trained to do everything in his power to assist and protect both mother and child during the birth process, deliberately kills the child in the birth canal.

This is a partial-birth abortion: First, guided by ultrasound, the abortionist grabs the live baby's leg with forceps; second, the baby's leg is pulled out into the birth canal; third, the abortionist delivers the baby's entire body, except for the head; fourth, then, the abortionist jams scissors into the baby's skull. The scissors are then opened to enlarge the hole; sixth, the scissors are then removed and a suction catheter is inserted. The child's brains are sucked out causing the skull to collapse so the delivery of the child can be completed.

As you can see, the difference between the partial-birth abortion procedure and homicide is a mere 3-inches.

Abortion advocates claim that H.R. 1833 would "jail doctors who perform life-saving abortions." This statement makes me wonder whether the opponents of the bill have even bothered to read the bill. H.R. 1833 makes specific allowances for a practitioner who performs a partial-birth abortion that is necessary to save the life of a mother.

Of course, there is not a shred of evidence to suggest that a partial-birth abortion is ever necessary to save a mother's life or for maternal health reasons.

Indeed, the procedure poses significant risks to maternal health. Dr. Pamela Smith, director of medical education, Department of Obstetrics and Gynecology at Mount Sinai Hospital in Chicago has written:

> There are absolutely no obstetrical situations encountered in this country which require a partially delivered human fetus to be destroyed to preserve the health of the mother. Partial-birth abortion is a technique devised by abortionists for their own convenience . . . ignoring the known health risks to the mother. The health status of women in this country will . . . only be enhanced by the banning of this procedure.

Further, neither Dr. Haskell nor Dr. McMahon—the two abortionists who have publicly discussed their use of the procedure—claims that this technique is used only in limited circumstances. Dr. Haskell advocates the method from 20 to 26 weeks into the pregnancy and told the American Medical News that most of the partial-birth abortions he performs are elective. In fact, he told the reporter:

> I'll be quite frank: most of my abortions are elective in that 20- 24-week range . . . probably 20 percent are for genetic reasons. And the other 80 percent are purely elective.

He advocates the method because, quote:

> Among its advantages are that it is a quick, surgical out-patient method that can be performed on a scheduled basis under local anesthesia.

Dr. McMahon uses the partial-birth abortion method through the entire 40 weeks of pregnancy. He claims that most of the abortions he performs are nonelective, but his definition of nonelective is extremely broad. He describes abortions performed because of a mother's youth or depression as "nonelective." I do not believe the American people support aborting babies in the second and third trimesters because the mother is young or suffers from depression.

Dr. McMahon sent the subcommittee a graph which shows the percentage of, quote, "flawed fetuses," that he aborted using the partial-birth abortion method. The graph shows that even at 26 weeks of gestation half the babies Dr. McMahon aborted were perfectly healthy and many of the babies he described as "flawed" had conditions that were compatible with long life, either with or without a disability. For example, Dr. McMahon listed 9 partial-birth abortions performed because the baby had a cleft lip.

The National Abortion Federation, a group representing abortionists, has also recognized that partial-birth abortions are performed for many reasons other than fetal abnormalities. In 1993, NAF counseled its members, "Don't apologize: this is a legal abortion procedure," and stated:

> There are many reasons why women have late abortions: Life endangerment, fetal indications, lack of money or health insurance, social-psychological crises, lack of knowledge about human reproduction, etc.

The supporters of partial-birth abortion seek to defend the indefensible. But today the hard truth cries out against them. The ugly reality of partial-birth abortion is revealed here in these drawings for all to see.

To all my colleagues I say: Look at this drawing. Open your eyes wide and see what is being done to innocent, defenseless babies. What you see is an offense to the conscience of humankind. Today, we will attempt to put an end to this detestable practice. After today, it will be up to the President. He has the power to stop partial-birth abortion or continue to allow the killing of a living child pulled partially from his mother's womb.

□ 1445

PARTIAL-BIRTH ABORTION BAN

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

Mr. SMITH of New Jersey. Madam Speaker, even if President Clinton bows to the pressure of the pro-abortion lobby and vetoes the partial-birth abortion ban, the fact that the Congress, in what will be, as it was previously, a bipartisan vote in support of the ban and the fact that the American people of all political persuasions, men and women of all ages, are beginning, and I mean just beginning, to face the truth and reality about the cruelty of abortion on demand will have made all of this worth the effort.

I chair the subcommittee on International Operations and Human Rights. I also am chairman of the Helsinki Commission. I have been in this body now for some 16 years, Madam Speaker. I have always found when we work on human rights issues, it is never easy, whether it be trying to help a Soviet Jew, whether it be trying to help a persecuted Christian in the People's Republic of China, there are always these so-called unwanted people everywhere. Regrettably, the human rights abuse in this country is that which is directed at the most innocent and the most defenseless of all human beings, unborn children. This is the violation of human rights in the United States of America in 1996, the killing of unborn children, 1½ million or so per year on demand, and most of them are

for birth control reasons, not the hard cases, life of the mother or even rape and incest. They constitute a very small, infinitesimal number of the abortions. Most of the abortions are done on demand.

Madam Speaker, I believe very strongly that the 22-year coverup of abortion methods, including chemical poisoning of babies is coming to an end. I think most people are beginning to realize, salt solutions are routinely injected into the baby's body, killing that baby, because of the corrosive impact of the salt. And they are appalled.

Another method of abortion, the most commonly procured method, is the dismemberment, D&C suction method, where the baby's body is literally ripped to shreds. We have, because of the leadership of subcommittee Chairman CHARLES CANADY's bill, hopefully, achieved the end of a very gruesome method of abortion, the partial-birth abortion method. This method in recent years has been done increasingly. It is being done in the later terms, in the 6th, 7th, 8th, 9th months of the babies' gestational ages. And, hopefully, even though the President may veto this, this will be the beginning of an effort to outlaw this sickening form of child abuse.

This picture to my left is truly worth a thousand words. It shows what the doctor does, and I just would like to use the doctor who is one of the pioneers of this gruesome method. I will just very succinctly read his statement as to how this method is done. His name is Dr. Martin Haskell, a doctor who performs partial-birth abortions by the hundreds. He has said, and I quote,

> The surgeon takes a pair of blunt, curved Metzenbaum scissors in the right hand. He carefully advances the tip curved down along the spine under his middle finger until he feels contact at the base of the skull under the tip of the middle finger. The surgeon then forces the scissors into the base of the skull. Having safely entered the skull, he spreads the scissors to enlarge the opening. The surgeon then removes the scissors and introduces a suction catheter into this hole and evacuates the skull contents. When the catheter is in place, he applies traction to the fetus, removing it completely from the patient.

What this so-called doctor is describing, Madam Speaker, is infanticide. The baby is partially born, and this so-called doctor then kills the baby in this hideous method. Hopefully, this legislation will get a second shot, not withstanding the President's veto, so we can outlaw this gruesome form of child abuse and banish it from this land.

WHY THE ENDANGERED SPECIES ACT SHOULD BE IMPROVED

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

Mr. YOUNG of Alaska. Madam Speaker, I take this time to bring to the attention of the floor, my colleagues, and those that might have the opportunity to hear what I have to say why the Endangered Species Act should be improved. That is the subject of this hour of debate. I will be joined by other Members that were directly involved in trying to improve the Endangered Species Act.

Madam Speaker, I came to this House as a Representative in 1973. Later that same year, I voted, one of the few remaining individuals that voted for the Endangered Species Act of 1973. There were only two hearings on the bill. There was no objection in the committee, and it very nearly passed unanimously on the floor. Those of us who voted for it never dreamed that some day it would be used by this Federal Government, the Government of the people, by the people, and for the people, supposedly, to control vast amounts of privately owned land, that it would be used by extremists to throw thousands of families on to the welfare roll.

The Government has said they want to improve the lot of the people, allowing this bill to be misused. And, Madam Speaker, that is what has happened to the Endangered Species Act. It is a tragedy. It is a law with good intentions, a good goal, but it has been taken to the extremes that the American people no longer support thus endangering the species and why we must improve the act.

This law has resulted in some people losing the right to use their land, their land, not your land, not the Federal Government's, but their land, because an agency, the Fish and Wildlife Service, has ordered them to use their land as a wildlife refuge. These landowners have not been compensated in any way, shape, or form, as our Bill of Rights requires. They still must pay their taxes on this federally controlled land and are singled out unfairly to bear the burden of paying for, supposedly, the public benefit. This has hurt not only the private landholder, the basis of our society, but it has also hurt the wildlife that depend on that land.

Because of the way that these Washington bureaucrats, primarily in the Fish and Wildlife agencies, have treated landowners, and particularly farmers, wildlife is no longer considered an asset by the landowners. Now the presence of wildlife is feared. A lucky few of these landowners have been able to file suit or fight the bureaucrats and extremists in court, a lucky few, those that have extremely great amounts of wealth. However, there are many people who have not been so lucky and have had to suffer the loss of their property or their livelihoods in silence without the tens of thousands of dollars needed to defend their rights in court.

Since I became chairman of the Committee on Resources, I have tried to ensure full and fair public debate on how to protect our endangered species and our threatened species while protecting the private property owner. Our committee held seven field hearings and five Washington, DC, hearings on this issue, the Endangered Species Act, and the revision of said act. We heard over 160 witnesses. Over 5,000 people attended and participated in these hearings.

Through our hearings all over the country, we gave the American people an opportunity to help us write our recommendations for repairing the Endangered Species Act. What we learned from these hearings is that American people love wildlife and have a true appreciation for our natural resources. However, the American people also love and cherish our Constitution, our way of life, and our freedom. The American people want a law that protects both wildlife and people. They want a law that is reasonable and balanced. They want a law that uses good science to list the species. Right now, today, all it takes is someone to file a petition saying they think, in fact, it is endangered, and then the Fish and Wildlife or Forest Service, Park Service, whoever it may be, will have to make a massive study even though that species may never reside there. That is how this act has been misused.

The American people are willing to make sacrifices if those sacrifices make sense and accomplish the goal of protecting truly endangered or threatened species. However, the current law on species, subspecies, and small regional subspecies, is based only on the best currently available science. That means, even though a species or subspecies may be thriving and abundant in various areas around the Nation, one small geographic population can be listed and can be used to stop the property owners from using their land in that area.

This is not America. The number of frivolous lawsuits that have been filed under the ESA have exploded. These lawsuits result in friendly settlements between the Government and extremist groups. Then the Government can use the excuse of court orders to shut down entire industries, put thousands of people out of work, and deprive landowners of their rights.

Lawyers are making millions of dollars, paid for by the taxpayers, by filing these suits, since the ESA requires judges to pay lawyers from the Federal Treasury.

□ 1500

The result is entire communities are devastated while environmental groups get richer. Who is filing these suits?

Only environmentalists are allowed to file these suits in most of the country. If a private citizen may be harmed economically and wants to file a suit to protect their own land or job, the courts have closed the door in their faces. The ESA has been identified recently by a government commission as the worst unfunded mandate on States and local governments.

The Fish and Wildlife Service and the courts are imposing exorbitant costs on species protection and on small local towns and districts which they cannot afford. These small towns either pass on these costs to their taxpayers and property owners or reduce important public safety, health, and educational services. There are other serious problems with the way the Federal Government is using the law.

Now, do I, do we, does the committee support gutting or repealing the Endangered Species Act? Absolutely not. Contrary to what you may read in the paper or is being reported by this administration, we do not believe in eliminating or gutting ESA. But the American people are not going to continue to support and pay for our efforts to protect their wildlife unless we make the ESA work for the people and the wildlife. We need to make necessary repairs in a law that has become broken.

We spend hundreds of millions of dollars in this country for the protection of our great natural resources. Our good Secretary of Interior, Bruce Babbitt, has a $6 billion budget, a $6 billion budget, to protect our natural resources, but he says that is not enough. He wants more land under Government control, more money under Government control, and more power. Let us not forget that word, power.

We want to keep a good Endangered Species Act that truly protects our wildlife and our people, but we want to give more to do these good things back to the people who can do it best, the American public.

I trust the American people to be good stewards. They have in the past and will be in the future. When Federal action is needed to protect our wildlife that migrates across State lines, to protect our parks and refuges, to protect our waters and the air we breathe, we will continue to fund the millions to do the job, but we want to do it right.

Mr. Speaker, I take this time today because we need to make the Endangered Species Act work. We can only do that if we take up this important law and repair the damage that has been done.

Mr. Speaker, may I say, before I yield time to my colleagues, there is a case in California where a gentleman in fact is taking care of a small acreage of land and protects all species around it because he wanted to do so. Now he is under threat by the Fish and Wildlife Service saying because there are certain species on the small acreage of land, that he can no longer till the land around it. In fact, he is prohibited from making a living, without compensation. They would be taking his livelihood away.

Why do you think those species are there? It is because he has protected them. He has provided them shelter. He has provided them with food and the love that takes to maintain the species. But along comes this Government and says, "Now, we know what is best. You must not disturb their habitat." He was the one who protected the habitat.

He is being told by this Government that no longer has the sensibility to get out of the rain, that they know what is best for species. And he has a very serious choice to make: Is he in fact going to continue to protect those species, as he has done in the past, or will he retain his livelihood and eliminate that species? He does not want to do that.

It is time we review this act and improve this act, to make it work for the people of America, and for the species.

Mr. Speaker, I yield 5 minutes to the gentleman from Utah, Mr. [HANSEN].

Mr. HANSEN. Mr. Speaker, I appreciate the gentleman from Alaska yielding me time.

Mr. Speaker, I agree with the gentleman from Alaska. This is probably a very worthwhile piece of legislation, and I think the gentleman did the right thing in voting for it in 1973. However, that was not carved in stone. That did not come from Mount Sinai by the hand of Moses or some other great prophet. It was just done by puny little legislators who got together, and from time to time we have to make changes. Now is the perfect time to make changes in a law that we see is not working.

The gentleman from Alaska gave some very good illustrations. In another life I used to be Speaker of the House of the State of Utah. I that situation, I had to go talk to the Governor of the State every week.

I remember one day going down and talking to Governor Scott Matheson, a very fine man. He was just fuming. He was mad as could be. He said, "I am not going to let another blankety-blank person come into this State and find an endangered species, because what do they do, they tie it up in critical habitat, in endangered habitat, and all they are trying to do is get their master's or doctorate degree on this."

I remember also debating a law professor, Professor Jefferson from the University of Utah Law School. He made an interesting statement. He said, "Why is it that man, the Homo sapien, has more rights than the shark?"

I said, "Well, professor, if you would like to read the 27th chapter of Genesis, it says the Lord created all these things, and then He put man ahead of them and said he was supposed to be in charge of them all and be a good steward."

The professor said, "That just is myth and folklore in that book."

I said, "Take it that way if you want, professor, but that is what happened over the years. Man does have control. He is in control of these things and should be a good steward."

We find ourselves here today talking about are we a good steward with what is here upon the Earth, and we are bound to take care of? I think it is important to know, is the Endangered Species Act working as it is currently on the books?

My constituents and I have an extensive experience with ESA. One of the most impacted areas is Washington County in the little State of Utah. There we have four fish and a desert tortoise in that area. In addition to those, there are also approximately 50 species on the candidate list, some of which under the current rules are likely to be listed in the near future.

Accordingly, Washington County has the unfortunate experience of being one of the most heavily impacted counties in the United States. It is in the best interests of everyone, including States, local government, private landowners and the Federal Government, to try and work in partnership to preserve biodiversity and recover savable species.

To this end, the good people of Washington County have undertaken a habitat conservation plan that represents over 5 years of gut-wrenching effort, including the expenditure of over $1 million by a relatively small county to get this HCP approved. Another approximately $9 million will be expended by Washington County to see the plan fully implemented.

In addition to the millions spent by the county, the Federal Government is obligated under this plan to provide approximately $200 million to justly compensate affected landowners. Notwithstanding the fact that the Federal Government has this obligation, to date not one, not one single landowner has received payment for their land that has been rendered worthless by this HCP.

Knowing that the preservation of species is a top priority for everyone, it is important to emphasize that the current ESA, as regulated and implemented by the Fish and Wildlife Service, makes it difficult, if not totally impossible, to achieve this goal. Conservation of endangered species is best accomplished in an atmosphere that promotes a healthy economy founded on the principles of respect for voluntary involvement of local communities and affected landowners.

Perhaps the biggest problem of the current act, as interpreted by the Fish

and Wildlife Service, is the use of the ESA to take people's private property without compensation and in some cases to insist upon totally unreasonable mitigation that prevents a landowner from utilizing all or part of their property.

We all share the same goals of a clean environment and preservation of species, but in order to accomplish this, we must restore some balance in the ESA, and that is what the gentleman from Alaska and the gentleman from California are trying to do. In concept it is unflawed, but the actual implementation of the law has become a nightmare for hundreds of communities around the country that will only worsen unless we have the courage to amend this act.

Mr. Speaker, I would urge the Members of this body to carefully consider what we have done, the problems we have, and they all ought to look at the map that shows if everyone of these endangered species is brought forward and is listed as critical, and then endangered, the Homo sapien might as well walk out as Jefferson Fordham said, and just leave it up to other things, because there will be no room for the Homo sapien if everyone of these is implemented.

Mr. YOUNG of Alaska. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I thank the gentleman for his comments. I hope the people watching and listening to this back in their offices understand that the gentleman from California and myself and the gentleman from Utah have tried to work out a solution to a very serious problem. When we passed this act, the regulatory law had come into effect. It is the regulatory law and the courts by extremist groups that have misinterpreted the law. We are trying to right this law so no longer can that occur, and keep our species and also recognize the importance of man and his right to participate on private property.

Mr. HANSEN. Mr. Speaker, will the gentleman yield?

Mr. YOUNG of Alaska. I yield to the gentleman from Utah.

Mr. HANSEN. Mr. Speaker, I would like to point out the two gentlemen here have done an especially fine job in putting this together. All the criticism I have heard around America is in generalities. I wish these people would specifically point to the law and say this particular part is wrong or that particular part is wrong. Do not give us these generalities. Everyone can stand up and beat their chest. We want to have people tell us where we are wrong so we can discuss it. So far I have not personally had that opportunity. I wish the people of the House would take the time to look at the bill.

Mr. YOUNG of Alaska. Mr. Speaker, I yield 10 minutes to the gentleman from Texas, Mr. SMITH.

Mr. SMITH of Texas. Mr. Speaker, I thank my friend from Alaska for yielding me time.

Mr. Speaker, I'm pleased to join Chairman YOUNG of the Resources Committee to discuss the critical need to fix the broken Endangered Species Act. The Endangered Species Act needs to be reformed because the current law harms people and the environment.

Today, the Endangered Species Act does not protect species. It violates the basic rights of hard-working, law-abiding, tax-paying Americans, the very people who ought to be empowered to protect our natural resources. While the Endangered Species Act is flawed in a number of ways, I'd like to focus on three of the most critical areas where the Endangered Species Act desperately needs to be reformed.

First, the Endangered Species Act needs to be operated in a way that respects the basic civil rights of all Americans. The fifth amendment to the U.S. Constitution provides: "Private property shall not be taken for public use without just compensation." This amendment guarantees a basic civil right: that no citizen in society can be forced to shoulder public burdens which, in all fairness, the public as a whole should share.

The fifth amendment does not stop the Government from meeting important public objectives. It simply ensures that those who want certain public benefits do not obtain these benefits at the expense of particular individuals. The fifth amendment is about fairness.

Usually, this simple, common sense, rule of fairness is followed. If the Government wants to use private property for construction of a highway or to create a national park, the Government simply condemns the land and uses the private property.

The requirement that Government pay for this private property—rather than simply taking this land—has not impeded the development of our highways or national parks. To the contrary, we have the best and most impressive highways and national parks the world has ever known. The requirement that Government pay to acquire private property for use in these public endeavors simply ensures fundamental fairness.

But not all public uses are equal. When it comes to some public uses of private property, private landowners are denied compensation. Americans whose land is used to protect endangered species suffer condemnation without compensation.

One American whose fifth amendment rights have been violated by an unfair, and unconstitutional, application of the Endangered Species Act is Margaret Rector. A 74-year-old constituent, Ms. Rector purchased 15 acres in 1973 in order to plan for her retirement. Her retirement plans were destroyed when in 1990, the U.S. Fish and Wildlife Service decided that her property might be critical habitat for the golden cheeked warbler, even though no birds were found on her property.

Ms. Rector was denied any productive uses of her private land. Today, Ms. Rector's property has lost over 97 percent of its value. Even though Ms. Rector is denied productive uses of her private property under a public law, the Government denies her just compensation.

The same rule of basic fairness that applies to Americans whose land is used for a highway or other public benefit also should apply to Margaret Rector. Americans whose land is used for protecting endangered species are not second-class citizens, and it's time that their Government stopped treating them that way. It is simply unfair, and a violation of basic civil rights, to obtain this kind of public benefit by forcing only a few Americans to should the entire cost.

It is essential that we reform the Endangered Species Act to ensure that all Americans' fifth amendment rights are respected. Government must compensate private landowners when it takes their land, or a portion of their property, for the public purpose of protecting and preserving endangered species.

Second, the Endangered Species Act must be reformed to encourage protection of endangered species. Today, it actually discourages resource conservation. Thousands of private landowners manage their lands as responsible environmental stewards. Unfortunately, in a classic example of unintended consequences of governmental action, the Federal Government's war on private property rights has actually undermined protection of endangered species, the very goal of the Endangered Species Act.

How did this happen? The Endangered Species Act imposes confiscatory regulations on private lands that contain valuable resources. It punishes ownership of vital or threatened natural resources. This discourages landowners from environmentally friendly land management practices, and deters the growth of wildlife habitat.

The story of Ben Cone is illustrative: Ben Cone is a North Carolina conservationist who carefully managed his 8,000 acres of timberland in North Carolina so as to develop natural resources and attract wildlife to his property. Mr. Cone was successful, so much so that Mr. Cone's property became the type of land that is habitat to the red cockated woodpecker. How did the Government reward Mr. Cone for his successful environmental management? It forced him to bear a $2 million loss for his hard work by prohibiting any development of a small portion of his property. His lesson: accelerate the rate of clearing the land to discourage the costly woodpecker.

The story of Mr. Cone is by no means the only evidence of the antienvironmental effects of the Endangered Species Act, as it is currently enforced. Officials at the Texas Parks and Wildlife Department contend that adding the golden-cheeked warbler and black-capped vireo to the endangered species list has encouraged the rapid destruction of their habitat. It is my hope that the Government end its counterproductive, and unfair, reliance on heavy regulation and instead encourage private environmental stewardship.

As in so many other areas, the goal of our policies should be results, not more power and more bureaucracy in Washington, DC. Whether we're talking about welfare, Medicaid, education, or protection of endangered species, the people of Texas, California, Wyoming, or Maine understand what needs to be done to serve important public goals. They don't need unelected officials in Washington—who have never visited their land—telling them what to do.

The goal of our Endangered Species Act should be protection of species and conservation of natural resources. The difference between Secretary Babbitt's approach and the reform model that we're discussing today is not the goal: both of us want to protect species. The question is how best to accomplish this goal.

We believe that landowners have an important role to play in resource protection. We believe that our resource protection laws need to work with landowners, not against them. And we believe that the kinds of disincentives that discouraged Ben Cone from protecting species must be eliminated.

The Endangered Species Act must be reformed to accomplish its goal: protection of species. Today it actually harms species.

Third, the Endangered Species Act should be used to protect species, not as a national land use planning device. When Congress enacted the Endangered Species Act, it did not intend to grant the Federal Government an easement over much of the private lands west of the Mississippi.

From the beginning, Congress realized the need to balance species protection with the rights and needs of people. Congress enacted this law to protect the bald eagle, to avoid direct harm to species whose numbers were low or depleted so as to avoid extinction. This is a laudable, and reasonable goal.

Unfortunately, too often what starts out as a reasonable and laudable Government program does not remain that way. Government officials at the Department of Interior have interpreted this reasonable law in an overbroad and unreasonable way so as to restrict activities on private property, regardless of whether an endangered species in threatened by this activity.

The Government has used the Endangered Species Act to impose ruinous restrictions on private lands regardless of whether the endangered species is on the land, will be harmed by the proposed activity, or has ever visited the land. According to the Department of Interior, as long as the land in question is the type of habitat that the endangered species tends to use, the Endangered Species Act applies. Most recently, Secretary Babbitt has discussed expanding this habitat to cover entire ecosystems.

It's time to return the Endangered Species Act to the original intent of its authors: to prevent harm to particular species. It's time to remind Government officials that private property is privately owned, and that the families and individuals who purchased the land, not the Federal Government, have dominion over it.

The Endangered Species Act is in critical need of reform. Our reform goals must be: Protect civil rights. Encourage private stewardship. Prevent Federal land control. Adoption of these simple, commonsense reforms, each of which was intended by Congress when it enacted the Endangered Species Act, will put some balance into the Endangered Species Act and should actually help preserve the environment.

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Mr. YOUNG of Alaska. Mr. Speaker, I want people to remember and visualize the lady, the widow in Texas. She purchased the land in 1973, basically as retirement, if I am not mistaken.

Mr. SMITH of Texas. That is correct.

Mr. YOUNG of Alaska. And the value of that land prior to the golden-cheeked warbler supposedly was, it was valued to—do you have the value of that land?

Mr. SMITH of Texas. It was a couple hundred thousand and it depreciated in value 97 percent.

Mr. YOUNG of Alaska. My understanding is, it was valued close to a million dollars for her retirement and now is worth $30,000, if that, and, in fact, if it can be used at all. Again, it is my understanding, if I am not correct, you may answer this, that they had not found the golden-cheeked warbler but it was possibly the habitat for the golden-cheeked warbler; thus they declared it an endangered area for the species; is that correct?

Mr. SMITH of Texas. Mr. Speaker, if the gentleman will continue to yield, that is absolutely correct. The golden-cheeked warbler had never been seen on her property, past or present. It just might someday tend to land there. For that reason the regulations were imposed.

Mr. YOUNG of Alaska. It is also the fact, I think, if I am correctly informed, that they have found golden-cheeked warbler in many other different areas but because of the so-called habitat is the reason they classified it, but they never looked at the other areas to find out if there was an abundance of them there or whether in fact they could be helped in another area. They have taken this widow, this 70-year-old widow, invested the money in 1973, and taken her retirement away from her. I say that for those that are interested in Social Security, Medicare, and Medicaid. This is your Government in action, with no science, only an agency's idea of how the act should be implemented. That is why I thank the gentleman for supporting my efforts to improve the act so that the American people can regain their faith in this Government and also protect the species. I thank the gentleman.

Mr. POMBO. Mr. Speaker, along the same lines with this particular lady, I had the opportunity to hear her testimony before the endangered species task force. One of the things that she brought up at that time, and I thought it was very interesting, was that this was not some pristine isolated location, that this was in the middle of an area that was zoned for industrial development.

Mr. SMITH of Texas. Mr. Speaker, if the gentleman will continue to yield, that is exactly correct. This is not an isolated incident. It is not the exception to the rule. This is very typically the rule where someone purchases property for investment purposes, for a retirement home in this case, and then sees the value of their lifetime savings, perhaps lifetime savings of two or three generations, wiped out just because of the Government-imposed regulation. In this case, it makes no sense and does not have any connection to actually protecting or preserving any species.

Mr. YOUNG of Alaska. Mr. Speaker, this brings up another point in the gentleman's presentation.

Would you say that this is Government land management, Government land control, Government telling States and individuals what they have to do because the Federal Government says that is what you have to do?

Mr. SMITH of Texas. That is exactly right. I agree with the gentleman. Again, I appreciate his efforts and his leadership on this issue.

Mr. POMBO. Mr. Speaker, the gentleman also serves on the Committee on the Judiciary which has broad jurisdiction over constitutional issues.

Is it your understanding that there is any place for Federal land use policy in the Constitution?

Mr. SMITH of Texas. I think any Federal land policy of the kind that we are talking about, that means the way the current Endangered Species Act is being enforced, is in clear violation of the Constitution, particularly the fifth amendment. Until the Government decides to engage in some just compensation to compensate landowners for the

lost value of their property, in my judgment they are in violation of the Constitution.

Mr. POMBO. So in essence what happened with your constituent in this case was you had someone who lost basically nearly all the value of her property, which she was going to use for retirement, but it could have been my property or anyone's property that lost the value of their property, based upon a decision that came out of fish and wildlife, which was, this is an industrial area, it is zoned for industrial use. It is not an isolated area. It is not a pristine habitat area. It is an industrial use that has industrial developments all around it. It borders on a major roadway, a major thoroughfare. But they were going to control any type of development on her property, not because there were endangered species on the property but because it was suitable habitat. If one wanted to live there, it could. It was suitable habitat.

Mr. SMITH of Texas. Right.

Mr. POMBO. You are telling us that that is what they were basing their decision on.

Mr. SMITH of Texas. The gentleman is absolutely correct. It is not the fact that the golden-cheeked warbler had ever landed in any of the foliage on that particular piece of property. It is not that they had at any time in the past. It is just that they some day might. There is no current use of the endangered species. That to me is out of balance. That is why we need to amend the Endangered Species Act.

Furthermore, I want to say to the gentleman, he makes another good point which is to say that this type of overzealous regulation enforcement by the Federal Government can hit anybody at any time. We are not just talking about an isolated landowner that may have a large ranch or farm in a rural area. We are talking about anyone who lives anywhere close to habitat that might be considered by the Federal Government to be a critical habitat.

Mr. POMBO. As chairman of the task force, I had the opportunity to take the task force to your district to hold a hearing earlier last year. One of the good fortunes that we had while we were in your district is we had the opportunity to visit a cattle ranch, a very well-managed cattle ranch in that area, and the gentleman took us out and explained to us how he was managing it to get the highest return from the property.

One of the issues that came up when we were out there was what would happen or how cattle ranchers would respond to the listing of the golden-cheeked warbler; in fact, how they would destroy habitat so that they would not have a problem with the fish and wildlife coming in and tell them they could not run cattle or could not run goats on their property.

Mr. SMITH of Texas. I remember well that day you and I were together on that Texas ranch. When you tell someone that they may lose the right of use of their property, it does not take long for that rancher or farmer to decide they are going to clear the brush that might be that critical habitat. Why wait for the Federal Government to, in effect, take over your property. The gentleman is absolutely correct. unfortunately these regulations force individuals not to be good stewards, it forces them to perhaps take some action that actually hurts the habitat in order to try to protect themselves.

Mr. POMBO. So if the golden-checked warbler were truly an endangered species and we were truly trying to recover that species, is not the Endangered Species Act working in the exact opposite direction? Is it not giving people the perverse incentive to destroy habitat so that they do not have a problem?

Mr. SMITH of Texas. I agree with the gentleman. I do not think the Endangered Species Act is being enforced as originally intended and, quite frankly, it has gotten out of balance. The balance is too great on the side of the regulations, and they do not take, in their enforcement, enough consideration of the adverse economic impact on the real people, hard-working individuals that may have spent their lives working to cultivate the land, spent their lives investing in the land, spent their lives working from daylight to dark pouring everything they have into the land and then all of sudden they find they cannot use it in the way they intended. Clearly, the Endangered Species Act is not being enforced as it should be enforced. We need to get back to a better balance.

Mr. POMBO. So what we are faced with today is that the Endangered Species Act as it is being implemented today is not good for species, is not recovering species, is not helping out with wildlife, and at the same time it is causing severe economic and social hardship across the country?

Mr. SMITH of Texas. The gentleman is correct, absolutely correct.

GENERAL LEAVE

Mr. YOUNG of Alaska. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous material on the subject of my special order?

The SPEAKER pro tempore (Mr. EWING). Is there objection to the request of the gentleman from Alaska?

There was no objection.

Mr. YOUNG of Alaska. Mr. Speaker, I yield to the gentleman from Louisiana [Mr. TAUZIN] newly acquired great Member of this side.

Mr. TAUZIN. Mr. Speaker, I thank the gentleman from Alaska [Mr. YOUNG] not only for yielding time but for having this special order. It is important because I think all Americans love and appreciate the great outdoors. We appreciate the diversity of animal and plant life not only in America but on the planet. We all have an interest in preserving it and making sure that we do not lose it.

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When you come to areas like Alaska and Louisiana, you have a special appreciation for it, because of the land, the water, the species that inhabit them are special to us. I grew up in the bayou country of south Louisiana where we are extremely close to nature. Nature was not just something we experienced by watching the Discovery Channel. It was part of our lives every day. To see anything go extinct is nothing that is very pleasant and certainly something we all want to avoid, not simply for the esthetics of it, but for the importance of it in terms of life on this planet.

Life should be precious to all of us. The life of a species ought to be one of the things we deeply cherish and want to protect.

Mr. Speaker, the question is not whether we love the great outdoors and whether we appreciate the great outdoors. The real question is whether the great indoors is working well enough to preserve the great outdoors. The great indoors is the Interior Department, and so great indoors is where bureaucrats work night and day turning out the regulations we all have to live with that most concerns us.

Mr. Speaker, what I think we are about is asking for reforms that bring common sense and effectiveness, user friendliness, to the environmental laws, the endangered species laws, of this country, not simply because we do not like bureaucrats, but, Mr. Speaker, more importantly, because rules and regulations ought to, No. 1, make common sense, because we will understand them better, appreciate them more, and they will work better; No. 2, they ought to be user friendly. That is, the people they affect ought to be taken into the equation. They ought to be considered. Public hearings, good science behind the decisions, explanations and a chance for people to have an understanding of why this rule is important to protect a species and perhaps change the way somebody is using and enjoying their property, for example.

The rules in the end ought to be not only good common sense and user friendly, but they ought to be effective, to carry out the purposes they intend.

A good example in Louisiana right now is a thing called the black bear conservation effort going on in our State. It is a voluntary land management plan that landowners have entered into voluntary agreements with conservationists to help propagate the species of black bear that resides in

Louisiana. The results have been dramatic.

Without Government intervention, without the Government coming in and declaring critical areas and coming down with all kind of rules about what you can do or not do with your property, landowners and conservationists are working cooperatively today to bring back a species, a subspecies of bear, that some said was threatened or perhaps endangered. The result is that we are getting an effective recovery.

Part of our commonsense plans to reform endangered species is to do just that, to put some good science into the equation that makes sure public hearings, that people have a chance to see and know what is going on, to make sure the regulations make common sense, that they are tested on the basis of effectiveness and cost benefit to make sure that we stress voluntary agreements first before we talk about command and control decisions out of Washington, DC, and then to test the bottom end result. Is it working? Is it recovering the species? Are we happy as a user family of American citizens who use this planet alongside the other species that inhabit this Earth? Are we happy together? Is it working out?

If we test it on that scale, the current law fails us pretty badly. If we test it on a scale of what we could accomplish, if we change the law in those respects, if we brought commonsense environmentalism to this Chamber, if we made our rules and regulations user friendly, and if we test it on the basis of how well they are recovering species, what good effect they are having, then I can guarantee you folks like the gentleman from Alaska [Mr. YOUNG] and the gentleman from California [Mr. POMBO] and I would not only be happy with the results, but Americans generally, whether you call yourself an environmentalist, conservationist, or whatever else you want to call yourself, we would all be happy to know that the laws are working, that they are appreciated, and that landowners and other effective groups are partners and friends of the act rather than having made enemies of the act and, therefore, fighting its effect instead of working with it.

Mr. Speaker, it is the kind of goal we hope to achieve. I think special orders like this, where we talk about the value of changing the law and making it better, are extremely important if we are ever going to get to that point, and we get past the politics and all the demagoguery, and we talk realistically about how we can build a better environmental law for America that protects species, and does make common sense, and takes people into account, and landowners, and values of their property, into account as we go about recovering their species.

Mr. YOUNG of Alaska. Mr. Speaker, the gentleman was speaking about his bear and the cooperative effort. This is the one thing, I know, in 1973, when we voted for this act, we thought we were doing, but for some reason we have lost track of the agency, that they have decided without looking at Federal lands, which we have 835 million acres of, we find out with the species residing in those areas they do not do that unless it is multiple-use land. They will come after the individual and say, you must do this. We lose this cooperation, we lose this partnership.

Mr. Speaker, I have said all along that we must be partners in this law in order to protect the species. You cannot expect the Government to protect the species by itself. The partners who should be part of it will in fact extinguish the species because they have no other choice.

Mr. TAUZIN. Mr. Speaker, a perfect example, this black bear deal in Louisiana. Not only was the conservation program working without any mandates from the Federal Government, not only was the black bear recovering nicely, but, believe it or not, the Department of the Interior was not happy with that. They instead came in and proposed a $3 million critical habitat area. They were going to impose it without any public hearings. They would not tell landowners what it would do to affect the use of their property. In fact, they could not explain what the differences were going to be when they mandate this critical area.

Well, we insisted on some public hearings. We finally got a couple, and we literally brought to light the fact that the program was working without the Federal Government mandating and controlling and creating critical areas. Landowners were volunteering. The partnership, Mr. YOUNG, was working.

Mr. YOUNG of Alaska. Can I bring an example up that I ran into recently in the State of Florida down around Gainsville?

There was a sighting of a puma, or a mountain lion or a puma, whatever you like to call it, by farmers, and they made up their mind they were going to protect this puma if, in fact, it was. The Fish and Wildlife from the Federal Government said there is no such thing in Florida and this area. Well, they found tracks, they being the farmers, saying, all right, we know it is here. They took costs of the tracks. They named him Toby, by the way. They cast the track, took it to the Fish and Game Department, our Government in action, and they had to say, lo and behold, there is a puma. So they set out, and they finally zapped him with a tranquilizing gun, and then did a DNA on the puma and decided the puma was a western puma from New Mexico. Now how he got—unless they are doing the Amtrak or a 747 plane.

Mr. TAUZIN. on vacation.

Mr. YOUNG of Alaska. Or on vacation. How he got all the way to Florida, I do not know.

Remember now the farmers wanted to keep the puma. This is a Florida puma, in their minds. But Fish and Wildlife said in their minds, and in fact made an edict; they got him in a cage now, said that he is not indigenous to the area, he is a western mountain lion, or a puma, and thus they are going to transfer him via air to New Mexico because he does not belong and because they decided he did not belong there.

Now keep in mind, if I am sure how ridiculous this is under the Endangered Species Act, and in the meantime this same thing, Mr. Babbitt and the Fish and Wildlife Department saying in fact the wolves are endangered in Yellowstone Park, and in Idaho and Utah. And they go to Canada, get a foreign wolf, and tranquilize those foreign wolves, and, by the way, they killed five of them in doing so at a cost of $7 million and transferred foreign wolves down into the United States, which are not the same DNA.

Mr. TAUZIN. They were not French speaking; were they?

Mr. YOUNG of Alaska. They were not French speaking, saying this is perfectly all right. This is our Fish and Wildlife in a position of making absolutely outrageous decisions under this act, and that is where we have to——

Mr. TAUZIN. Mr. Speaker, one of the things the gentleman from California [Mr. POMBO] has talked about at a number of our hearings was the fact that, overall, there are 4000 species waiting to get listed right now under the Government command and control system. Most of them are bugs. While we talk about the Endangered Species Act protecting beautiful animals, like pumas and bears and eagles, that actually the next listings, the next big round of listings, will be all kinds of insects. People's properties and values and their lives are going to be affected now dramatically because of the presence or absence of an insect anywhere near their home.

Mr. Speaker, this law is beginning to have effects that nobody calculated. If we do not somehow restore some common sense to it so that we can get more cooperative agreements in here and more good science behind some of these decisions, we are going to have some real problems in this country.

Mr. YOUNG of Alaska. Mr. Speaker, the gentleman says 3,000 are going to be bugs. Let us stress that, bugs, things that you squish if they get on you. You mean to tell me, if they decided that the red tick, the Mississippian tick that is awfully prevalent in the woods, and some places it is not because they are eradicated; if they decided that tick was—by the way, the tick carries diseases—was an endangered species, and I happened to get one of those

ticks on my body as I was walking through the woods enjoying this beautiful flora and fauna, and that tick was on my body, I could not destroy it because of endangered species?

Mr. TAUZIN. You could if you wanted to pay——

Mr. YOUNG of Alaska. I would have to pay a $3,000 fine. Would I have to declare it with the Fish and Wildlife Department?

Mr. TAUZIN. I think you would probably find a way to hide that tick.

Mr. YOUNG of Alaska. Got to be one of those SSS's.

Mr. POMBO. Mr. Speaker, if the gentleman would yield on that. He is correct in his assumption of the 4,000–4,200 candidates, species. The vast majority of those are insects that they have on the species list. That is one of the major reasons why it is so critical that the Endangered Species Act be reauthorized and reformed in doing so.

Mr. Speaker, if they were to declare the gentleman's tick an endangered species, and it would not have to be endangered across the country, just in specific regions of the country, unique species, localized species, subspecies of the major tick species, they could list that as an endangered species. Not only would you get in trouble for smashing that, on the other side of that, under the current law in the way it is being implemented, they would have to import them from other areas of the country to reintroduce them into the areas where they had become endangered in order to maintain a viable population of them.

That is the absurdity of the act in the way that it is currently being implemented.

Mr. TAUZIN. Mr. Speaker, the biggest absurdity in my mind though, it is a fact that all of these decisions are being made without the benefit of good science. The law right now says that a listing can occur with what is called best available data, B-A-D. Bad science, whatever is available. If you only know a little bit, and that tells you it is endangered, then you have to list it under the current law. You do not need to do the research and find out whether or not, in fact, there are other populations of this animal or plant or insect somewhere else.

Mr. Speaker, we are driving, in effect, the whole body of regulations that are becoming increasingly difficult for Americans to live with on the basis of bad science. We do it without public hearings in many cases. We do not consider cost-benefit ratios. We do not consider whether the regulations we impose make common sense. We simply must impose them once that listing occurs on the basis of bad science.

Now, you cannot tell me that kind of a law makes good sense, to say that you are going to list something with bad science. Then you are going to have rules and regulations made without the benefit of public hearings and that in the end you are going to make a regulation that impacts dramatically the lives of people without ever considering the cost, without looking for the least-cost alternative, to find the best way to save that plant or animal without putting people out of work, or taking their property away from them, or putting in jail, as the gentleman from Alaska [Mr. YOUNG] said, smashing a bug.

Mr. POMBO. Mr. Speaker, the gentleman is absolutely correct. Current law does not require them to use good science. If he went out and did a biological study on his black bear in Louisiana, and he wanted to print that in a scientific magazine, it would have to stand up to peer review before they would ever allow you to even print it in a scientific magazine. But it could be listed as an endangered species based on that biological data without ever being peer reviewed, without another scientist, biologist, in this entire world verifying that you——

Mr. TAUZIN. You mean a biologist could nominate a species, and on the basis of his information could get listed and impact millions of Americans?

Mr. POMBO. Absolutely, and it does have to be a biologist. It can be a college student doing their senior thesis on the disappearance.

Mr. YOUNG of Alaska. Mr. Speaker, if I can, the gentleman has to understand one thing. We had a case in my great State of Alaska where there was a petition filed by two students from New Mexico saying that the archipelago wolf possibly could live in this forest and, by even filing the petition, 535,000 acres were put off limits for any man's activities until they can study if the archipelago wolf was, in fact, a reality.

Mr. TAUZIN. Mr. Speaker, the gentleman is saying that the land was put off limits even before the listing?

Mr. YOUNG of Alaska. Before the listing.

Mr. TAUZIN. Just because somebody—

Mr. YOUNG of Alaska. No scientist, and on top of that, the Fish and Wildlife, I have to give them some credit, says there is no way that the archipelago wolf would ever be there.

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But Mr. Speaker, the Forest Service said we have to follow through with the studies. Consequently, the impact upon people in that community has been devastating. We have lost employment, we have put people on welfare, and still, there is no wolf and there never was a wolf and there never will be a wolf in that area, but because two people out of New Mexico filed a petition, that is why this act must be reformed.

Mr. TAUZIN. Mr. Speaker, I thought of something else that really does not make any common sense. Under the law, the way it is written today, interpreted by the Supreme Court, if I own a piece of property that may harbor some endangered species and I want to alter that property to enhance its capacity to hold that species, I cannot do it.

Mr. YOUNG of Alaska. You cannot do it. You cannot even develop a wetland for species that would reside in a wetland. You cannot do it.

Mr. TAUZIN. If I own a piece of property that I thought was mine and I want to enhance it for wildlife conservation, if there is an endangered species on it, I cannot even do that. The Government will not let me even enhance my property.

Mr. POMBO. Under current law, Mr. Speaker, they will not allow you to even enhance the current population of endangered species on your property.

Mr. YOUNG of Alaska. But they can. The Government can introduce a species, they can go to Canada and get a foreign wolf and bring it down, but you yourself cannot do it on your own property.

Mr. TAUZIN. I want you to think with me, if we were able to change the law, if we could get something past this Congress and signed by the President to bring some commonsense environmentalism to endangered species laws, and we had a situation where landowners would be encouraged to invite endangered species on their property and encouraged to enhance the conservation capabilities of their properties so these species could grow and actually enhance the population significantly, if had that kind of law in place, instead of the one that tells the landowner, "You had better not find an endangered species on your property or we will shut you down; you had better not invite one on, because we will shut you down; you had better not even try to improve your property for species because we will shut you down," if we have that kind of law, which we do today, and we had the chance to build a better law that encouraged landowners to do the right thing, why would we not do that?

Mr. POMBO. If the gentleman will yield, Mr. Speaker, why we would not do it is because so many people have so invested in the current system. If we look at those that are protecting the status quo who do not want commonsense changes, it is because they would have to give up power, if you empowered people. They would have to give up money, the tens of millions of dollars a year in Federal grants that these extremists get in order to maintain the current system. They want to protect the system that is in place right now because they have a pretty good thing.

Mr. YOUNG of Alaska. But they do not want to protect the species. They have not protected the species.

Mr. POMBO. The species has become secondary.

Mr. YOUNG of Alaska. They say it is a great success. In reality, there have been no species protected. They claim the eagle. The eagle was very viable in my State. The eagle's problem was DDT. It was not the Endangered Species Act. Once we stopped using DDT, we have eagles now in the majority of the United States today, and we have an abundance of them in Alaska, so it was not the act; but they keep waving it because it was the American bird. They keep saying, "This is what we did with this act."

Mr. POMBO. Mr. Speaker, if the gentleman will continue to yield, we talk about reversing the incentives so people have a positive incentive, a positive goal to create endangered species habitat, maintain endangered species habitat on their property, so we are using the carrot instead of the stick. People will respond to that.

The other side of this is the regulatory process. This right here represents what a developer goes through if he wants to develop a house on a piece of property. These are the steps that he has to go through just in case he has an endangered species problem. You wonder why houses cost so much money in this country. You wonder why the average working couple, the young couple my age, has such a difficult time purchasing a piece of property to follow the American dream. This is what has to happen before one shovel of dirt is turned, before one permit is issued.

Mr. TAUZIN. In fact, Mr. Speaker, not only are we not doing the right things, the law encourages landowners to do the wrong things, as the chairman of the committee pointed out.

We heard the testimony of one landowner whose father left him this beautiful property that they had develop over years, and all of a sudden, a woodpecker arrived. They discovered woodpeckers on the property they had enhanced. Now he is clear-cutting the rest of his property to avoid what he calls an infestation of an endangered species. Instead of doing the right thing, as his father had done for many years, he is clear-cutting now.

Mr. YOUNG of Alaska. Because he had to do it.

Mr. TAUZIN. He had to do it to protect his value.

Mr. YOUNG of Alaska. Mr. Speaker, I yield to the gentleman from Washington, "DOC" HASTINGS.

Mr. HASTINGS of Washington. Mr. Speaker, I thank the gentleman for yielding, and I thank him for having this special order. The discussion that we have here has been, frankly, very interesting. What I would like to bring to this is the kind of a discussion from a macro standpoint. You have been talking about a micro standpoint.

When I look at reforming the Endangered Species Act, I look at bringing good science in as being very important, as the gentleman from Louisiana, Mr. TAUZIN, has said, and also protecting private property rights. But in my area in the Northwest, I want to talk about it from a macro standpoint, because it has a huge impact beyond what we talked about.

For example, the power in the Northwest comes from falling water. About 90 percent of our power comes from water over dams. Whenever we deal with water, of course, what are we dealing with? We are dealing with fish. We have a potential listing of several species of salmon, as the chairman knows, in the Pacific Northwest, Snake River salmon, Columbia River salmon.

I can tell you from a scientific standpoint, and this is the important part, from a scientific standpoint there is little difference between the Snake River salmon or the Columbia River salmon. One kind goes up to the tributary, and the other continues on up. Yet, because of that potential listing and because, in part, of the bad science, that has been part of what is being suggested by NMFS we have drawdowns not based on science, where it simply has not worked. I think what the committee has done as part of a reform to this plan is to bring the local community, the State, the local counties, whatever the case may be, into saving those species.

We have, for example, in place in the big Columbia system an agreement that was brought about some 8 years ago by local entities, we call them the big Columbia PUD's, the public power systems that we have there, it is called the Bernita Bar agreement. What it has done is enhanced the spawning grounds on the last free-flowing stretch of the river.

This is precisely what people thought needed to be accomplished earlier on, and it was done on a local level. The way the act is written now, those sorts of things are not encouraged. What the committee has passed out, that is encouraged, so I congratulate the chairman of the committee for taking the lead on this. Hopefully, we can get something passed.

I also want to commend him for his leadership in introducing a comprehensive proposal that makes common sense reforms to the ESA. As a member of Representative RICHARD POMBO's House ESA Task Force, which held a series of field hearings throughout the country last year on this issue, I am quite pleased that he included so many of our recommendations in his bill, H.R. 2275.

Reforming this well-intentioned but out-of-control law has been one of my top priorities in the 104th Congress. The problem with the current version is that it does not properly balance our environmental needs with our economic realities. I strongly believe these goals are not mutually exclusive.

The Endangered Species Act is having a devastating impact on our local economy throughout the Pacific Northwest. Whether it be loggers, farmers, water users, or any other hard working man or woman dependent on our natural resources, the ESA is in desperate need of reform.

My own area of central Washington is certainly no stranger to the existing problems of the ESA. As the location of many large dams and irrigation districts along the Columbia and Snake Rivers that generate power and provide water for our farmers, we have been faced in recent years with an ESA mandated National Marine Fisheries Service [NMFS] Plan to protect several species of salmon that will bring the total cost for salmon protection for our region to $500 million. Since 1982, our region has already spent $1.5 billion for salmon restoration. If we do not reform the ESA soon, the Pacific Northwest is likely to spend close to $1 billion annually on salmon recovery alone by the turn of the 21st century.

The NMFS proposal recommends depleting the storage reservoirs on the Columbia/Snake mainstem by 13 to 16 million acre feet [MAF]. Up to 90 percent of the total storage capacity will be used for flow augmentation at the annual cost of $200 to $300 million.

Worst of all, the best and most current science on this subject developed at the University of Washington indicates that in-river survival is better than previously expected, in the 90 percent survival range. That information, when included in current modeling, such as the University of Washington's CRiSP, Columbia River Salmon Passage Model, report indicates that reservoir depletion beyond some 5 million acre-feet will not increase survival.

Clearly, the science upon which NMFS is basing its recommendations is highly suspect. However, NMFS seems to have ignored this evidence and concluded that only dam operations are the problem. The point is we are about to enter into a process that will further restrict the economic opportunities of thousands of hard working men and women in our area with little or no scientific evidence that this plan will enhance or even protect existing salmon populations.

There are many factors behind the recent decline in salmon runs including the increase in ocean temperatures off the coast of Oregon and Washington, better known as El Nino. This increase in temperatures off our coasts has even caused declines in salmon runs and populations in rivers and streams where no dams exist. At the same time, as I understand it, salmon runs in Chairman YOUNG's home State of Alaska remain much stronger due in part to significantly lower ocean temperatures.

Let me be clear, my constituents and I are committed to protecting our precious salmon resource in the Northwest. However, we must do so in a common sense way that assures that these runs are protected for future generations to enjoy at minimal cost to our rural communities that depend on our dams for their economic survival.

One of the problems with the current law is that it mandates that all listed species be restored to original numbers. In some cases, this is a worthy and realistic goal. However, in other instances, this is counterproductive to the goal of species recovery.

For example, in my area of the country, there is the Snake River Sockeye salmon run that we are spending tens of millions of dollars in an attempt to restore to original numbers.

Almost everyone admits that it is virtually impossible to completely recover this run.

However, under the current ESA, we are being forced to do just that when we could be spending this money more wisely on improving salmon runs that are genetically indistinguishable from the Snake River Sockeye but have a far better chance of complete recovery.

Under H.R. 2275, the ESA is amended so that salmon runs like the Snake River Sockeye are protected. At the same time, the bill gives greater consideration to enhancing healthier runs that have a better chance of full recovery. This change in the law will lead to a much larger and healthier salmon supply for our entire region.

When one considers the ESA's current problems with the fact that only a handful of species nationwide have fully recovered to the point where they could be removed from the list since the act was first enacted in 1973, it is quite evident that the current law is neither protecting species nor families that depend on our natural resources for their livelihoods.

One of the major reasons for the act's failure to fully recover species is the set of perverse incentives that it encourages. The current law punishes people for protecting habitant on their property and rewards those who develop their land with no consideration for wildlife. These perverse incentives were mentioned over and over again by witnesses at our task force field hearings. That is why I am delighted that Chairman YOUNG has included a number of our recommended reforms in his bill.

First and foremost among our task force's concerns was the issue of compensation. H.R. 2275 encourages property owners to cooperate with the Federal Government in our efforts to protect species by compensating them when restrictions imposed by the ESA diminish their property's value by 20 percent or more.

This much needed reform will not only encourage greater cooperation between the public and private sectors in protecting species but will also force the Federal Government to prioritize our limited financial resources on species that are most in need of recovery. Rather than scattering our current resources on fully recovering all species, as the current act calls for, H.R. 2275 will lead to more recoveries and many more ESA success stories.

Equally important, our bill also encourages stronger science by requiring that current factual information be peer reviewed. In addition, the bill makes all data used in the decision process open to the public.

Mr. Chairman, I have barely scratched the surface in my limited time here this afternoon of all the improvements H.R. 2275 makes to the Endangered Species Act. Our task force continues to work hard in support of passing H.R. 2275 which addresses so many of our people's concerns.

I am pleased that Chairman YOUNG and Congressman POMBO have taken the lead on this legislation and look forward to continuing to work together on reforming this act so that it will better protect species and communities had hit by the current law.

Mr. YOUNG of Alaska. Mr. Speaker, I thank the gentleman for his support and information. He brings up a very valid point. If we had listened to the localities, the States, and the communities, we could have solved the problem on the river. I would suggest another thing, though, as long as the gentleman brought it up, because I brought it up myself about importing the Canadian wolves down to reintroduce wolves.

I have also suggested we can rebuild the Columbia River fishery by the enhancement with Alaskan stock. The answer I get from NMFS and the Fish and Wildlife: "We cannot do it because they are not indigenous to the area. They are not part of the stream." To them I say, "I thought you wanted to bring the fish back. We can help you do that." They say, "We cannot do it."

But it is all right for them to bring the wolves down, against everybody's wishes and beliefs, and they are Canadians; because our fish come from Alaska, a State of the United States, they are saying, "They are not part of the system." It is the mindset that we are dealing with today that is not working.

Under our bill, we will bring the people in and it will be part of the State, part of the community, and we will solve the problems and bring the species back. I am very excited about that concept, and I hope those that might be listening to this program will think about what we are trying to do, not gut it, not repeal it, but to improve upon it. That is what our bill does. I thank the gentleman.

Mr. HASTINGS of Washington. One last thing I would mention, if I may, Mr. Speaker. That is that we had a meeting of some local people from our State, talking about the need to amend this act.

One local farmer made a very profound statement. I think it is indicative of probably all of us across the West that have private property, where the treat would come by having an endangered species found on our private property. This particular farmer said, "If I saw a potential endangered species walk across my property, my first reaction would be to shoot it and kill it and not tell anybody."

Mr. HASTINGS of Alaska. They belong to the "Three S Club," "Shoot, shut up, and shovel."

Mr. HASTINGS of Washington. That is right. If we look at what the intention of the act was 23 years ago, and you voted for it because the intention was good, that action by this farmer would do nothing at all to enhance the species. It is counter to what we are trying to do. Why? Because of the heavyhanded administration coming from the Federal Government, because that is what this act says should be done. So it needs to be reformed, it needs to be reformed to bring the local people involved in this sort of stuff, but more important, common sense, and let us protect private property rights, because after all, that is a constitutional requirement.

Mr. PACKARD. Mr. Speaker, for decades the liberals in Congress have distorted the original intent of the Endangered Species Act to further their extreme agendas. In November, the voters cried foul and asked Republicans to restore rationality to our environmental laws.

Our reform proposal stops the radical environmentalists in their tracks. They will no longer ride roughshod over our property rights. Instead, Republicans will protect our natural resources as well as our freedoms.

In its current form, the Endangered Species Act creates perverse incentives for landowners to destroy habitat which could attract endangered species. Once these animals migrate there, landowners lose their property rights to the snails, birds or rats who happen to move in. In essence, the ESA, as currently written discourages the very practices which will ultimately protect endangered species habitats. Instead, we need to ask landowners to participate in preserving our natural resources. Property owners are not villains. Everyone wants to preserve our resources.

In addition, Federal bureaucratic administration and enforcement of the Endangered Species Act is tantamount to Federal zoning of local property. State and local officials have no say in how the ESA is implemented and enforced in their States and communities. State and local officials need to have greater control. They know what is best for their communities.

In my district I can give you several recent examples of government violating the rights of private property owners. One hundred twenty-one acres of the most beautiful property in Dana Point valued at over $1.5 million an acre was devalued because of the discovery of 30 pocket mice, an animal on the endangered species list. Years of planning for the use of this land had to be abandoned. The owner even offered to set aside four acres of his land just for the mice, about $150,000 per mouse, but the government said that was not enough.

In another instance, a property owner had a multimillion dollar piece of property in escrow when the city declared it as wetlands. He was then offered $1 an acre for this useless "wetland". This is a travesty.

Mr. Speaker, Congress passed the Endangered Species Act more than 20 years ago. Originally intended to protect animals, this act hurts humans. It is time to give human needs at least as much consideration as those of birds, fish, insects, and rodents. The time has come for a change. Private, voluntary, incentive-driven environmental protection is the only effective and fair answer to this controversial law.

RESTORING REASON TO ENVIRONMENTAL PROTECTION LEGISLATION

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

Mr. DOOLITTLE. Mr. Speaker, I will only use a minute or two, because I know the gentleman from California, [Mr. RADANOVICH] would like to comment on this. I would just commend

the gentleman from Alaska [Mr. YOUNG] and the gentleman from California [Mr. POMBO] for their leadership efforts in doing something to restore some reason, I think, to the laws of our country pertaining to this area.

The ESA is something that has a legitimate purpose. We need to have a law, however, that is balanced and reasonable and effective. I would submit that we have a number of stories heard in testimony around the country and I have heard many of these myself as I have sat on the task force, on the committee, and we have held hearings, we have had a number of instances where this has proven not to be the case.

It is one thing to talk about it in theory. It is another to be the private property owner and to have the big hand of Government holding a gun pointed at your head. That is what we heard time and time again from these private property owners who all of a sudden are forced with mandates from the EPA or the Corps of Engineers, or any other number of State and Federal agencies. It is just nearly overwhelming.

Let me just express strong support for the efforts of the chairman of the committee, and indicate to the American people that there is a real need to make sure that we are reasonable and responsible in dealing with our species, but there is also an obligation to protect our private property rights, and there is an obligation to make sure we have a balanced, reasonable, and effective approach on this.

Mr. Speaker, I yield the balance of my time to the gentleman from California [Mr. RADANOVICH].

Mr. RADANOVICH. Mr. Speaker, I thank the gentleman. I wanted to add my comments into the RECORD regarding this legislation. I think anybody here on this floor is in favor of protecting endangered species, is in favor of protecting the environment, is in favor of good stewardship. The question remains, though, is it a responsibility of the private property owners, is it a responsibility of local government, is it a responsibility of State government, or is it a responsibility of the Federal Government, and where do those responsibilities lie?

I think the folly of the endangered species over the last year has demonstrated that the heavy hand of Federal Government in care of the environment can produce some pretty crazy results. For instance, there was the arresting of a farmer in California for disking up five kangaroo rats and being sent to trial in Federal court. My hope is that in the adoption of the Endangered Species Act, according to the Pombo-Young bill, that that responsibility begins to be returned away from Federal bureaucrats and back down to the State, local, and private property owner level, because that is where good stewardship begins in this country.

Mr. POMBO. Mr. Speaker, will the gentleman yield?

Mr. DOOLITTLE. I yield to the gentleman from California.

Mr. POMBO. Mr. Speaker, the gentleman happens to come from a part of the country that has probably been impacted as greatly as any other region of the country in the central valley in California, with the multitude of species that are directly in the area that have been listed, as well as the aquatic species that survive within the natural river system in California, which has impacted the delivery of irrigation water to a number of the gentleman's constituents.

Is it his opinion that if we went to an incentive-based system that operated where the individuals were rewarded for their stewardship or rewarded for being good stewards of the lands and, quite frankly, had more of an impact on what recovery plans were adopted, what they look like, what best worked, would that work better for your constituency?

Mr. RADANOVICH. Yes, it would. I have a number of cases where people have gone the extra mile to provide habitat on their farms, to provide for the environment, things that they would like to see on there, and then being further penalized because of the fact that they have done that. Current law penalizes any initiative like that that is out there and currently exists.

This country will not survive unless stewardship is brought down to the local level and people are given incentives to take care of their private property and the environment, because that is really a natural thing for people to want to do. I think that natural tendency ought to be encouraged through legislation.

Mr. POMBO. If the gentleman will continue to yield, being a farmer himself, could the gentleman describe the fear that his constituents feel when they may or may not have an endangered species on their property?

Mr. RADANOVICH. I can tell you from personal experience where there were times when we would allow onto our property certain environmental groups to catalog certain species of flowers and different things. There is no way in God's green Earth we would be allowing that right now, simply because what it does is it leads to stealing of your private property rights. So under current law, there is a disincentive. The gentleman earlier mentioned the term "shoot, shovel, and shut up." That is very, very clear in response to current legislation.

□ 1600

REPUBLICAN ENVIRONMENTAL SWAT TEAMS OUT IN FULL FORCE

The SPEAKER pro tempore (Mr. EWING). Under the Speaker's announced policy of May 12, 1995, the gentleman from Michigan [Mr. BONIOR] is recognized for 15 minutes as the designee of the minority leader.

Mr. BONIOR. Mr. Speaker, the Republican environmental SWAT teams are out in full force today.

Speaker GINGRICH is advising his colleagues to do photo-ops at local zoos to counter the image that the Republicans are extremists on the environment.

And over the past few weeks, a number of our Republican colleagues have come to this floor to defend their record on the environment.

Every time I hear one of them, I'm reminded of the story about that man who was arrested for eating a California condor.

He was dragged into court and the judge said, "before I lock you up, what do you have to say for yourself?"

The man said, "Judge, you don't understand. I was out hiking when I got caught in a terrible avalanche. I was trapped for days without food or water. When I was near death, a bird flew over my head, so I shot it down. I didn't know it was a California condor. But judge, if it wasn't for that bird, I would have starved to death."

The judge was so moved that he decided to let the man go free.

As he was walking out of the court, the man was stopped by reporters and they said, "Before you leave, we have to know one thing. What did the bird taste like?"

The man said, "Oh * * * it's kind of a cross between a bald eagle and a spotted owl."

It seems to me that the Republicans have the same problem on the environment. They don't have any credibility.

On one hand they come to this floor to talk about the environment. But on the other hand, they're working in the back room with the polluters lobby to destroy 25 years worth of progress on the environment.

Don't just take my word for it, Mr. Speaker. Listen to what others have said.

The Sierra Club says that the GOP agenda "breaks faith with the American public."

The Natural Resources Defense Fund calls the first session of the Republican Congress "the year of living dangerously."

The nonpartisan National Journal says that a conservative Republican tide is threatening to wash away 25 years of progress on the environment.

And just today, the lead editorial in the Washington Post reads, and I quote, "Republican leaders began to complain last fall that their party has been misunderstood on the environment. They said they intended to moderate their position. But the persistence" of the legislative riders that they are continuing to push even this week "suggests that there's been no moderation."

In other words, they're just as extreme as they were a year ago.

And most telling of all in a recent poll: 55 percent of Republicans say they don't trust their own party on the environment.

Mr. Speaker, all over America today, people are wondering: how did this happen?

How did things go so wrong so fast?

For 25 years, Democrats and Republicans have worked together to protect the environment.

And we are rightfully proud of all that we've been able to accomplish.

Working together, we've made tremendous progress. Today, 60 percent of our lakes and rivers are clean. Major rivers no longer catch on fire. Millions of Americans are breathing cleaner air. Hundreds of toxic dump sites have been cleaned up. And tens of millions of Americans all over this country are reusing and recycling.

Together, we've banned DDT. We've protected millions of children from lead poisoning. We cut toxic emissions from factories in half. And in the process of keeping our environment clean, we've helped create millions of jobs.

This is a proud record of progress shared by both parties. But at the same time, we all know: the job is not done.

Despite all the progress we've made, 40 percent of our lakes and rivers are too polluted for swimming or fishing. One in three Americans still live in an area where the air is unhealthy. Ten million children under the age of 12 live within 4 miles of a toxic waste dump.

And as recently as 3 years ago, 104 people in Milwaukee died and 40,000 got sick when a toxin called cryptosperidium got released in their drinking water.

We've got a lot of work left to do. Yet, at the very moment when we need national leadership most the Republicans have mounted the most aggressive anti-environmental campaign in our history and are busy right now taking the environmental cop off the beat.

To understand how it happened, Mr. Speaker, you don't have to do an extensive search.

All you have to do is understand the environmental journey of one man.

One man who went from the hilltop of environmental protection to the sludgepit of environmental waste.

One man who went from having a 66-percent League of Conservation Voters approval rating all the way down to zero today.

And Mr. Speaker that one man is NEWT GINGRICH himself.

Long before House Republicans ever signed the Contract With America, NEWT GINGRICH signed a different contact, a contract with every polluter and anti-environment special interest in the land.

To understand his journey is to understand the extremism of House of Republicans.

You know, there are a lot of people who like to joke that Speaker GINGRICH is the kind of man who would jump up on a tree stump to give a speech on conservation.

But it wasn't always that way, Mr. Speaker.

In the early 1970's, before he was ever elected to Congress, NEWT GINGRICH actually taught a course on the environment.

In 1982, he earned a League of Conservation Voters approval rating of 66 percent.

In 1987–88, his approval stood at 50 percent.

That's not a stellar rating, but it's not bad.

But in 1989, something happened, Mr. Speaker. Something began to change.

People concerned about the environment began to notice that NEWT GINGRICH would no longer return their phone calls. He no longer spoke out on environmental issues.

And his voting record began to change.

In the 101st Congress, he sided with the oil industry and voted against States' rights to set their own oil spill laws. In 1989, he sided with the timber industry and voted to allow unchecked logging in the Tongass National Forest in Alaska.

In the 102d Congress, he sided with the mining and grazing industry and voted to sacrifice nearly two-thirds of the California Desert to industry. In 1991, he sided with the chemical industry and voted against communities' right to know when toxic waste was being dumped in their neighborhoods.

During this time, his voting record did more somersaults than Mary Lou Retton.

He flip-flopped on a bill to allow oil drilling in the Arctic Refuge. In the past, he sided with environmental protection. But now, he sides with the oil industry.

He's flip-flopped again and again on a bill that would protect endangered species. In the past, he sided with animals and voted yes. Today, he sides with industry.

And through it all, the man whose League of Conservation Voters approval rating stood at 50 percent in 1988 began to take a nosedive.

In 1989, it went down to 10 percent.

In 1990, it stood at 13 percent.

In 1991, it dove to 8 percent.

In 1992, it dropped to 6 percent.

In 1993, he felt guilty, so it went back up to 30 percent.

In 1994—zero percent.

In 1995—zero.

In 1996—zero.

The man who once taught a course on the environment was teaching us all how to sell out on the environment.

How did this happen, Mr. Speaker? What happened in 1989 to change things?

Well, its a simple answer. In 1989, NEWT GINGRICH was elected to his party's leadership. He was elected Whip of the Republican Party.

From the day he was elected whip, Mr. GINGRICH's campaign coffers began to bulge with contributions from the biggest polluters and special interests in America.

I would submit to you, Mr. Speaker, that this is the same exact pattern we see repeating itself in the Republican Party today.

From the minute the Republicans took over last year, a small army of very powerful industry lobbyists descended on Capitol Hill as if they owned the place.

As NEWT GINGRICH's own newspaper, the Atlanta Journal-Constitution wrote last May, these people have been, and I quote, "flooding the campaign coffers of friendly congressmen with hundreds of thousands of dollars in contributions."

Together with their friends in the Republican leadership the polluters lobby has mounted an all out assault on our environmental laws and public health protections.

In one documented case, an industry lobbyist actually sat at the dais during a committee hearing and helped rewrite the environmental laws of this Nation.

The polluters lobby is getting special favors, and the American people are paying the price.

Just listen to the parade of horribles that Speaker GINGRICH and his special interest friends are trying to pass today.

Just listen to what the Republican environmental agenda does in 1 year's time:

It cuts the Environmental Protection Agency by 21 percent.

It cuts pollution enforcement 25 percent.

It denies local communities $712 million in funding to protect drinking water, which is 29 percent below the President's request.

It cuts the land and water conservation fund 25 percent.

It even tried to kill the bipartisan Great Lakes initiative.

Because of all these budget games, 40 percent of all EPA health and safety inspections so far this year have been halted or canceled.

And that's not all.

Their budget cuts Superfund cleanup by 25 percent, which has forced the EPA to halt cleanup at 68 Superfund sites so far this year, including 4 in Michigan.

It rolls back local communities right-to-know about toxic waste.

It cuts Superfund research by 75 percent.

It cuts the Endangered Species Act 38 percent below the President's request.

It bars the listing of any new species as endangered.

It allows oil drilling in the Arctic Refuge.

It delays new meat inspection standards.

It weakens enforcement of the wetlands provisions of the Clean Water Act.

It accelerates—by 40 percent—logging of America's old-growth rain forest.

It eliminates funding for the National Park Service at Mojave Desert.

It terminates the Columbia Basin Ecosystem Management Project.

It delays approving pesticides with lower health risks to farmers.

It even delays new standards for toxic industrial air pollutants.

Under the present system, polluters pay. Under the Republican system, taxpayers would be required to pay the polluters to stop polluting.

No wonder Speaker GINGRICH is advising his colleagues to be seen at zoos. If they have their way zoos are the only place we'll be able to see animals.

And just as important as what they're trying to do is how they're trying to do it.

They knew the American people would never put up with the outright repeal of these bills so they're trying to sneak through the back door.

They knew they couldn't pass a bill to allow oil drilling in the Alaskan wilderness. So they snuck a provision into the reconciliation bill that allows drilling in Alaska.

They knew they couldn't just repeal the Clean Water Act. So they've attached legislative riders to gut environmental laws in 17 different ways.

They knew they couldn't pass a budget that cuts environmental protection. So every week, we get another stop-and-go budget that quietly keeps the EPA from doing its job.

I think the Republican Whip, TOM DELAY, said it best. He stood on this floor in defiance just a few months ago, and he said: "We are going to fund only those programs we want to fund. We're in charge. We don't have to negotiate with the Senate. We don't have to negotiate with the Democrats."

And apparently, they don't care much what the American people think either.

Thankfully, the American people are seeing right through the Republican agenda.

And thankfully, the veto pen of the President is more powerful than the axe of the GINGRICH Republicans.

Time and time again, the President has stood tall against the extreme cuts and we will continue to fight them every step of the way. Because we are a better nation than this and we are a better people than this.

We have come too far as a nation and we have sacrificed too much to turn the clock back now.

For 25 years, Democrats and Republicans worked together to protect the environment.

We have done so because we've always realized that despite our difference in the end we all drink the same water, we all breathe the same air, and we all depend on the same environment for our survival.

We can never forget. We don't just inherit this land from our parents. We borrow it from our children.

Speaker GINGRICH may have made a deal with polluters. But we were elected to what's right for the American people.

And if this Congress isn't going to work to protect the environment for our families and our children, if they aren't going to work to keep our water clean and our air safe, then come November the American people will elect a Congress that will.

□ 1615

THE URGENT NEED TO IMPROVE OUR EDUCATION

The SPEAKER pro tempore (Mr. EWING). Under the Speaker's announced policy of May 12, 1995, the gentleman from New Jersey [Mr. PALLONE] is recognized for 45 minutes as the designee of the minority leader.

Mr. PALLONE. Mr. Speaker, I yield first to the gentlewoman from North Carolina [Mrs. CLAYTON].

Mrs. CLAYTON. Mr. Speaker, I thank the gentleman for allowing me to share some of his special order time.

Mr. Speaker, today is the last day of the National Education Summit that is being held in New York.

Governors and business leaders from across the Nation recognize the urgent need to deal with America's education dilemma.

Most Americans, too, recognize the need to improve our education system so that every child can have a chance to learn, develop, and to realize his or her full potential, and in doing so, to be able to make a contribution to society. Yet, many Americans understand, regrettably, that there are too many of our Nation's students who are not being prepared for success later in life, but are doomed to failure.

They are in overcrowded classrooms, schools with poor curriculums, limited equipment, and low educational standards. Their teachers are underpaid and overworked. Too many of our students will drop out before completing high school if they are not challenged.

Mr. Speaker, we are at an important crossroads in education. All levels of government, and the private sector, should be working together and investing more resources in education, not less resources.

Again, most Americans are committed to investing more to improve our education system. Most Americans want to support our children and to ensure our Nation's future. And, if we understand the economics of education, we would know that quality education is a good investment.

Too many of my Republican colleagues want to invest less in education—25 percent less in some cases. Others question whether the Federal Government should even have a role in education.

But, the question should be which programs justify higher investment because they provide a sound economic payout? Which programs have worked and have proved their effectiveness? And, how can we insure quality performance and accountability?

The Federal Government supports educational programs and opportunities that the States and local communities are unable to provide. Let me briefly mention three examples of such programs.

The first is Head Start, Healthy Start, and other preschool programs—they have also proven their worth. These programs enable all children to be ready to learn when they enter school.

These programs have been studied, researched, and assessed to determine their value, and the results prove that if they are of high quality, they dramatically increase the educational performance of participants throughout their lives.

Investing in these programs gives back great payoffs for our society.

Title I compensatory education funds is another proven program. Last year, the First Congressional District of North Carolina received $46,267,400 in title I funds. These funds provided support to 30 school districts.

These funds provide for valuable teaching personnel and technology to disadvantaged school districts throughout the Nation.

This program addresses critical needs, identified by local school systems and has an outstanding record of performance where the right staff ratio and application of resources have been made.

The third example, Summer Youth Projects also have proven their value in addressing the need to give young people training and work experience during the summer.

These projects oftentimes provide the first real work experience, a disciplined environment, and the programs teach responsibility for the tasks assigned and how to work cooperatively with others.

Summer Youth Projects are effective in engaging young people in a constructive environment which contributes to their behavior and skill development.

Moreover, these projects are insurance against violence and disruption in our neighborhoods when young people are unsupervised and idle.

The three programs I have cited—the Pre-School Programs, Head Start, and Healthy Start; the Title I Program; and Summer Youth Employment—are all good educational programs that are

provided by the Federal Government and deserve continued and increased investment.

These educational programs are a great payoff for our society. The programs can, certainly, be improved, can be made more effective. We should always seek to improve and to require full accountability for all resources. But, we should amend or reform our investment in the programs—not cripple or end them.

Mr. Speaker, We are at a crossroads. We must make required reforms, improvement, and sufficient investment to provide a quality education system where every child—every child has a chance to learn, develop, and contribute.

HEALTH CARE REFORM LEGISLATION

Mr. PALLONE. Mr. Speaker, I am here today, because I wanted to discuss the health care reform legislation that we expect to come to the House floor tomorrow. I was at the Committee on Rules earlier today, and at some point today this afternoon or this evening I would expect that they would report out a rule on the health care reform. My concern is that the bill that will come to the floor tomorrow, rather than being the very simple legislation that was called for and endorsed by President Clinton during his State of the Union Address, instead it would be a much more controversial bill loaded up with many provisions that cannot be agreed upon on a bipartisan basis in this House and in the Senate and that the rare opportunity that we have in this session in the next few weeks to pass meaningful health care reform essentially would be scuttled because of the language and because of the nature of the bill that Speaker GINGRICH and the Republican leadership would bring to the floor tomorrow.

Let me start out by saying that many of the Democrats that I work with were very pleased with it when the President, in his State of the Union Address, indicated that he would like to see brought to his desk and signed into law legislation that was initially sponsored in the Senate by Senator KASSEBAUM and also by Senator KENNEDY on a bipartisan basis. The hallmark of this Kennedy-Kassebaum bill, if you will, is to address the issue of portability and the issue of preexisting conditions.

Portability means your ability to take your health insurance with you, in other words, if you lose your job or you change jobs, that you would not lose your health insurance, that you would be able to carry it with you.

In addition, when we talk about preexisting conditions, we are talking the fact that in many cases in many States, if an individual has a preexisting condition, health condition, where they are disabled or they were hospitalized for a period of time, that they find it difficult to buy health insurance because the insurers simply do not want to cover them because they think it is too much of a risk. It is estimated that something like 30 million Americans are impacted in some way because of problems associated with portability or preexisting conditions and that if this legislation, as originally introduced in the Senate by Senators KENNEDY and KASSEBAUM, or here in the House, legislation that was introduced by the gentlewoman from New Jersey, Mrs. ROUKEMA, who is my colleague, a Republican from the State of New Jersey, that if their bill were to become law, addressing these issues of portability and preexisting conditions, that about 30 million Americans would benefit in some way because they would be able to carry their insurance with them from one job to another or would be able to get health insurance even though they might have a preexisting condition.

So when the President said that he was willing to sign this bill and urged the Congress in his State of the Union Address to move forward in passing this legislation, many of the Democrats were heartened, because we figured that even though this was a very small part of the health insurance reform, that it was something that was positive and we would like to see it moved.

We had about, I think it is, up to 172 Democratic Members in this House who signed on as cosponsors to Congresswoman ROUKEMA's bill and urged that the bill come to the floor exactly the way she had drafted the legislation. I should point out that I am actually the cochair, along with the gentlewoman from Missouri, Ms. MCCARTHY and the gentleman from California, Mr. DOOLEY, of the Democratic health care task force. We have two goals with our task force. One is to increase coverage, because we know a lot of Americans do not have health insurance coverage and the number that do not have coverage continues to grow. And a second goal is affordability. We know that health insurance is increasingly becoming more expensive and out of the reach of a lot of Americans. And so we would like to do what we can legislatively to make health insurance more affordable.

Well, the Kennedy-Kassebaum bill, the Roukema bill here in the House, achieves the purposes of increasing coverage, because more people would be able to obtain coverage through the portability and preexisting conditions provisions, and it certainly does not do anything to make health insurance less affordable. It might even help with the issue of affordability.

So we were very happy with the legislation. Our task force endorsed the legislation. We had 172 Members of the House on the Democratic side that supported the legislation; very optimistic until we found out what the Republican leadership had in mind. We started to hear, a few weeks ago, that they were going to put this bill in various committees, that the various committees were going to come up with all sorts of approaches, some maybe which make sense, a lot which did not make any sense, that would be ideas or legislative provisions that would be added to the Kennedy-Kassebaum bill, in an effort to try to load it up, if you will, with all kinds of controversial provisions that would make it more difficult to pass.

Well, I believe that is what is happening. I believe, Mr. Speaker, that based on what the Committee on Rules is likely to do today, even though myself and other urged them not to, that the bill that comes to the floor tomorrow is going to be a lot more controversial and a lot more complex and a lot more loaded down with provisions that are not necessarily good for the American people and that the bill tomorrow is likely to have provisions providing for MSA's, which are medical savings accounts, it is likely to deal with malpractice-issues, it is likely to deal with antitrust issues, it is likely to deal with a myriad of issues that have nothing to do with the original Kennedy-Kassebaum.

What that means is the Republican leadership is bringing this bill to the floor loaded down with all of these controversial provisions and essentially will kill the bill, because it will not pass. Even if it does pass here, it will not pass with Democratic support, it will not pass the Senate, and the President will not sign it.

The worst part about this is the provisions that they intend to put in with regard to medical savings accounts, because there, unlike the original Kennedy-Kassebaum bill, which expands coverage and which at best leaves the question of affordability the same, this will make health insurance more costly and less affordable to the average American.

The principle of MSA's, or medical savings accounts, basically says that if you are a fairly healthy individual or if you are a fairly wealthy individual or if you happen to be both, then you basically put your money aside in a savings account that is not taxable, essentially, somewhat like an IRA.

□ 1630

You only have coverage for catastrophic illness. So therefore, since you do not really need to pay for a lot of health-related activities, because you are healthy or whatever, or because you can afford to pay when you do go to a doctor out of the medical savings account that you have been accumulating, that you enter into this sort of IRA, and at the end of the road, 10, 20 years down the road, you can simply take the money out of this MSA, like an IRA, and use it for other purposes unrelated to health.

The problem is that it damages the risk pool. Health insurance is based on the notion of a risk pool. The idea is that both the healthy people and the people who are not as healthy are all part of the same pool. If you take out the ones that are the healthiest and leave the ones that are less healthy in the pool, the end result is that more money has to be paid out to cover their health care-related expenses, and therefore the premiums will go up for the people that remain in the pool and who have not opted for the medical savings account.

So what we believe will happen is that if MSA legislation goes into effect, the cost for people who still buy the traditional health insurance and do not enter into a medical savings account will actually rise. Their premiums will go up, and therefore insurance for the average person becomes less affordable instead of more affordable.

So we cannot, those of us who believe that we should be expanding coverage and making insurance more affordable, health insurance, simply cannot support the medical savings account. I am sure there are going to be people that do not support the malpractice changes and the antitrust changes, and all this good effort over the next few weeks to try to pass a clean bill that will simply address the issues of affordability, portability and preexisting conditions, as Kennedy-Kassebaum would do, simply goes down the drain because this bill is loaded up with all the other things that are controversial and make it difficult for the bill to pass and ultimately be signed into law.

I just wanted to make the point, if I could, in some commentaries that have come up over the last few weeks, to sort of back up some of the points that I just made on why we should have a clean health care reform bill, rather than have it loaded up with all these other extraneous provisions.

If I could just briefly read part of the editorial that was in the Washington Post on March 18 that says "Bad Move on Health Care." It says exactly the way I and many of my colleagues on the Democratic side have felt, that:

> Not too many weeks ago it seemed as if Congress was about to pass, and the president to sign, a modest bill to help people keep their health insurance while between jobs. Not even the principal sponsors, Sens. Nancy Kassebaum and Edward Kennedy, describe the bill as more than a first step. It would not help people to afford the insurance, just require insurance companies to offer it to them. Still, it would be an advance.
>
> Now, however, House Republicans are threatening to add to the bill some amendments from their health care wish list that could derail it. If some of these amendments are added, the bill ought to be derailed. The worst is a proposal to begin to subsidize through the Tax Code what are known as medical savings accounts. The underlying bill seeks to strengthen the health insurance system, if not by making it seamless, at least by moving it in that direction. The savings accounts would tend to fragment and weaken the system instead. The Republicans in 1994 accused the President of overreaching on health care reform, in part to satisfy assorted interest groups. He ended up with nothing to put before the voters on Election Day. They risk the same result.
>
> Under current law, if an employer helps buy health insurance for his employees, he can deduct the costs.

I do not need to get into all of this. The Washington Post is recognizing what we all know once again, which is that we have a good bill here as Senators KASSEBAUM and KENNEDY have put forward, along with my colleague the gentlewoman from New Jersey [Mrs. ROUKEMA] and it should not be loaded down with MSA's and all these other provisions.

In fact, when this legislation went before the House Committee on Ways and Means, there were a number of Democrats who essentially expressed the same concern that I have, and they put out a dissenting view on the Kennedy-Kassebaum bill. They referred to the bill that it should be the "sink the good ship Kassebaum-Kennedy bill," because it was designed in every way to torpedo the passage of the modest helpful provisions of Kennedy-Kassebaum-Roukema.

The bill as reported by the Committee on Ways and Means, according to the Democrats in dissent, is not health insurance reform. It includes only a weakened version of the group nondiscrimination provisions of Kennedy-Kassebaum-Roukema. Of course, they again go into the whole problem with the MSA's and the problems that I have outlined before with the medical savings accounts and what they would mean in terms of the average person's health insurance costs or premiums going up.

In fact, we estimate that the proposal to include the medical savings accounts could end up costing taxpayers $2 to $3 billion overall, because essentially what the MSA's do is to encourage skimming or cherry-picking. The healthiest and wealthiest will leave traditional health insurance, thereby raising costs on everyone else. The large out-of-pocket costs and high deductible insurance costing thousands of dollars that result from the MSA's are especially unaffordable for middle-class families or for the recently unemployed, the very people who most need insurance reform.

One of the things that many of the Democrats have also been pointing out about this legislation and the inclusion of the medical savings accounts is that it basically has been included by the Speaker and the Republican leadership in order to placate, if you will, one insurance company, the Golden Rule Insurance Co., and the person who is the leader of that by the name of J. Patrick Rooney. He and the Golden Rule Insurance Co. have actually given $1.2 million to Republican candidates and campaign committees, $157,000 to GOPAC, the Speaker's political action committee, and $45,000 to Speaker GINGRICH's own reelection campaign.

So essentially what we are seeing here again is special interests ruling the day, because the Golden Rule Insurance Co. felt that they would like to see the medical savings accounts proposal included in health insurance reform, because they have a lot to gain, because it is included, it is now in the bill, even though all the Democrats and probably most of the Republicans do not really want to see it there, because they know it will kill any real proposal for reform.

The other thing I wanted to say is that many of the consumer groups have come out very much opposed to this larger grab-bag legislation, and most of the groups, whether it is the American Medical Association, the Independent Insurance Agents, or a number of other health care organizations, have indicated strong support for the Kennedy-Kassebaum bill and have indicated that they would like it brought to the floor as a clean bill, because it will work.

I just wanted, Mr. Speaker, if I could for a minute, to talk about some of the things that the Consumers Union says about this legislation tomorrow and the fact that it has been loaded up with all these other provisions.

They mention with regard to the medical savings accounts that the medical savings accounts disrupt the health insurance market by creating financial incentives that encourage division of health care risks. Actuarial studies conclude that MSA's would appeal to relatively healthy and wealthy individuals. The American Academy of Actuaries estimates the selection process could result in higher premiums, as much as 61 percent, for those remaining in traditional health insurance plans. The Joint Committee on Taxation also estimates that a deduction for MSA's would drain $1.8 billion from Federal revenues, compounding the national debt.

So not only are the medical savings accounts a problem because they are going to take the healthiest and the wealthiest out of the insurance risk pool, not only are they bad because they are going to increase premiums for the average American, but they also have the real possibility of draining Federal revenues and actually compounding the problems that we have with the national debt.

The Consumers Union also opposes the relaxed antitrust provisions for provider networks, it opposes the limitations on medical malpractice, it opposes the private health insurance duplication, and, again, on the issue of malpractice reform and antitrust, a lot of people disagree. I am not saying that

the Consumers Union is right when they say that these provisions are necessarily bad, but why include them in this bill? Why go this route? When right now we know that we have an unbelievable consensus on a bipartisan basis for Democrats and Republicans to move forward with the Kennedy-Kassebaum-Roukema bill, why are we loading it up with all these other provisions that are controversial and in many cases are going to actually increase the cost of health care for the average American?

It is nothing more than another example of how the Republican leadership in this House has put special interests first, has taken the interests of the wealthy and juxtaposed them against the interest of the average American. Hopefully some sense will prevail tomorrow. There will be a Democrat substitute offered that is essentially the Kennedy-Kassebaum-Roukema bill in its clean form.

I am hopeful that not only Democrats but Republicans will also support that substitute, and that we can get a clean bill passed here that deals with the issue of portability and also deals with the issue of preexisting conditions and has a good chance of passing in the Senate and ultimately going to the President. But we need to continue to speak out, Mr. Speaker. We have to continue to point out that that is the proper vehicle for this House to consider tomorrow, and not this larger piece of legislation that addresses all these controversial issues and makes it much more difficult for us to get rational health insurance reform in this session of Congress.

RECESS

The SPEAKER pro tempore (Mr. EWING). Pursuant to clause 12 of rule I, the Chair declares the House in recess until 5 p.m.

Accordingly (at 4 o'clock and 41 minutes p.m.), the House stood in recess until 5 p.m.

□ 1700

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore [Mr. ROGERS] at 5 p.m.

SENATE AMENDMENTS TO H.R. 1833, PARTIAL-BIRTH ABORTION BAN ACT

Mrs. WALDHOLTZ. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 389 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

Resolved, That upon adoption of this resolution it shall be in order to take from the Speaker's table the bill (H.R. 1833) to amend title 18, United States Code, to ban partial-birth abortions, with Senate amendments thereto, and to consider in the House a single motion to concur in each of the Senate amendments. The Senate amendments and the motion shall be considered as read. The motion shall be debatable for one hour equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary. The previous question shall be considered as ordered on the motion to final adoption without intervening motion or demand for division of the question.

The SPEAKER pro tempore. The gentlewoman from Utah [Mrs. WALDHOLTZ] is recognized for 1 hour.

Mrs. WALDHOLTZ. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from California [Mr. BEILENSON] pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, House Resolution 389 provides for consideration of the Senate amendments to the Partial-Birth Abortion Ban Act, H.R. 1833. The rule provides for 1 hour of debate on a single motion to concur in each and all of the Senate amendments. The rule further provides that the previous question is considered as ordered on the motion for final adoption.

Mr. Speaker, this rule will allow the House to consider amendments adopted by the Senate to the partial-birth abortion ban including an amendment offered by Senator DOLE that ensures doctors will be able to use this procedure when the life of a woman is in danger.

During consideration of this bill by the House last fall, serious concerns were raised about the affirmative defense provision included in the House bill that said that a doctor could not be convicted of using the partial-birth abortion procedure if the doctor can prove that the procedure was necessary to protect a woman's life. The affirmative defense, however, would not have protected a doctor from being arrested and prosecuted for using the procedure.

The Dole amendment adopted by the Senate addresses and ameliorates this concern. It clearly states that, without fear of prosecution, a doctor may use this procedure, when no other procedure is adequate, in order to protect the life of a woman.

Mr. Speaker, the rule is narrowly drawn so that we can adequately work with the Senate on changes that they have adopted to the bill and to expeditiously move the bill for final action. It is appropriate, Mr. Speaker, to limit debate on the measure to amendments that have been adopted in the Senate and not to use this bill as a vehicle for debating the enormous range of contentious issues relating to abortion.

Abortion is clearly one of the most emotionally charged issues that our Nation faces. People with the best of intentions who have carefully considered this issue come to opposite conclusions, and it is difficult to find areas of common ground. I would hope that this particular bill is an area where we can find that elusive common ground and prohibit a procedure that partially delivers a live child before killing it and completing the procedure, a procedure that one practitioner admits he uses for purely elective abortions about 80 percent of the time he uses this procedure.

Mr. Speaker, the procedure that we are talking about today is one that is gruesome and horrific. Without wishing to offend other Members or the people who may be watching these proceedings, I think it is critical, Mr. Speaker, that we describe exactly what it is we mean by a partial-birth abortion so that people will understand that we are not talking about a series of other issues that are related to the abortion debate, but we are talking in this bill about one very clearly described procedure that should be banned.

In this procedure, which is used during the second and third trimesters of a pregnancy, the practitioner takes 3 days to accomplish the death of the child. For the first 2 days the woman's cervix is dilated so as to promote the ease with which the doctor will perform the abortion. On the third day the woman goes into the doctor's office and through the use of ultrasound the physician locates the legs of the child. Using a pair of forceps, the physician then seizes one of those legs and drags that leg through the birth canal. The doctor then delivers the rest of the child, legs, torso, arms, and stops when the head is still in the birth canal. One practitioner who uses this procedure says the child's head usually stops before being delivered because, of course, the cervix has not been dilated to the point that a regular vaginal delivery would occur because that is not the point of this exercise.

So, once the child's head is stopped in the birth canal, the doctor reaches down to the base of the child's skull, inserts a pair of scissors, ending the child's life, yanks those scissors open to enlarge the hole and uses a vacuum catheter to suck out the contents of the child's cranium.

That is the procedure that we are talking about in this bill, Mr. Speaker, the partial delivery of a living fetus whose life is ended with its head still in the birth canal by the deliberate insertion of a pair of surgical scissors so that an abortion may be accomplished.

That is what we are talking about in this bill, Mr. Speaker. We are not talking about any other type of abortion. We are not dealing with Federal funding. We are not talking about any of the other issues with which we have to grapple in the abortion debate. But we are talking about a so-called procedure

that measures life in inches, and we need to agree with the Senate amendments and move this legislation forward, hopefully for signature by the President.

Mr. Speaker, the rule that this bill has attached to it allows for fair consideration of the amendments adopted in the Senate, and I urge my colleagues to support this rule.

Mr. Speaker, I reserve the balance of my time.

Mr. BEILENSON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I thank the gentlewoman from Utah [Mrs. WALDHOLTZ] for yielding to me the customary half hour of debate time.

Mr. Speaker, we oppose the closed process that would make in order consideration of the Senate amendments to H.R. 1833, the so-called and misnamed partial-birth abortion ban. This is a bill that on the pretense of seeking to ban certain vaguely defined abortion procedures is, in reality, an assault on the constitutionally guaranteed right of women to reproductive freedom and on the freedom of physicians to practice medicine without Government intrusion.

Those of us, Mr. Speaker, who fought for many, many years to secure, and then to preserve and protect, the right of every woman to choose a safe medical procedure to terminate a wanted pregnancy that has gone tragically wrong, and when her life or health are endangered, are deeply troubled by the legislation before us today and by the rule under which it is being considered.

We say at the outset that the other body improved the bill by agreeing to the Smith-Dole amendment which does shield doctors from prosecution if they perform the procedure when the life of the mother was in danger, but only under certain circumstances. However, this is an extremely narrow so-called life exception that requires that the woman's life be endangered by, quote, a "physical disorder, illness or injury," end of quote, and it requires, further, that no other medical procedure would suffice.

It appears that if the mother's life is threatened by the pregnancy itself, then the procedure would still be illegal. And it does not take into account the fact that doctors do not use other procedures because they pose greater risks than does this method of serious health consequences to the mother, including the loss of future fertility.

And of course the Senate amendment does not provide an exception to preserve the mother's health no matter how seriously or permanently it might be damaged.

For those reasons, Mr. Speaker, we feel strongly that a true life and health exception amendment should have been made in order.

It is bad enough, we feel, that we are being asked to vote on this irresponsible piece of legislation. To make matters worse, we are being required to consider it under an unfair rule, and it is one that should be defeated. Once again the majority has brought this most controversial of bills to the floor under a totally closed rule. That we would again be forced to consider a bill of this importance and of this complexity under these restrictions is offensive, to begin with.

Once again, Members are being denied a vote on an amendment that would allow an exception to protect a woman's life under all circumstances or to prevent serious adverse consequences to her health and future fertility.

The Committee on Rules heard very compelling testimony from the gentlewoman from New York [Mrs. LOWEY], the gentleman from Massachusetts [Mr. FRANK], and the gentlewoman from Colorado [Mrs. SCHROEDER] on their request to offer a true life and adverse health exception amendment to the Senate language.

We believe Members should have had the opportunity to vote on allowing those exceptions to the ban.

This is obviously a basic and fundamental concern to women and to their families. Without that exception, the bill will force a woman and her physician to resort to procedures that may be more dangerous to the woman's health and to her very life and that may be more threatening to her ability to bear other children than the method that we seek to ban. Making this amendment in order would have meant that Members could cast a vote that shows respect for the importance of a woman's life, health, and future fertility.

Mr. Speaker, the truth is we have absolutely no business considering this prohibition and criminalization of a constitutionally protected medical procedure. This is, we believe, a dangerous piece of legislation. We oppose it not only because it is the first time the Federal Government would ban a particular form of abortion, but also because it is part of an effort to make it virtually impossible for any abortion to be performed late in the pregnancy, no matter how endangered the mother's life or health might be.

What is at stake here is whether or not it will be compassionate enough to recognize that none of us in this legislative body has all the answers to every tragic situation which confronts a woman and her family. We are debating not merely whether to outlaw a procedure but under what terms.

If we must insist on passing legislation that is unprecedented and telling physicians which medical procedures they may use despite their own best judgment, then we must also, it seems to us, permit a life or adverse health exception. It is the only way we can ensure that the bill might possibly meet the requirements that have been handed down by the U.S. Supreme Court.

Mr. Speaker, this is a very personal matter to the people involved. I would hope that everyone can, but obviously not everyone has had the chance to, read the very moving testimony of one of my own constituents, Mrs. Coreen Costello of Agoura, CA, in opposition to this bill. Mrs. Costello described herself as a conservative pro-life Republican who always believed abortion was wrong until she was faced with the choice that she was in this case faced with.

She recounts in detail the events that have led to confronting the painful reality that her only real option was to terminate her pregnancy. The bill before us would ban the surgical procedure Mrs. Costello had about which she wrote, and I quote her:

"I had one of the safest, gentlest, most compassionate ways of ending a pregnancy that had no hope. Other women, other families, will receive devastating news and have to make decisions like mine. Congress has no place in our tragedies."

Mr. Speaker, if I may add a personal note, in 1967, then-Governor Ronald Reagan signed California's Therapeutic Abortion Act, which I authored and which was one of the first laws in the Nation to protect the lives and the health of our women.

□ 1715

When the U.S. Supreme Court subsequently ruled in Roe versus Wade that the government cannot restrict abortion in cases where it is necessary to preserve a woman's life or health, I thought that we have come to at least accept the precept that every woman should have the right to choose with her family and her physician, but without government interference, and when her life and health are endangered, how to deal with this most personal and difficult decision.

I see now that obviously I was wrong, and that this Congress is willing even to criminalize for the first time a safe medical procedure that is used only rarely, and almost always to end the most tragic of pregnancies.

Mr. Speaker, as I said, we believe this legislation is unwise, it is unconstitutional, and it is bad public policy to return to the dangerous situation that existed about 30 years ago and more. This legislation is not a moderate measure, as its proponents argue. It is, instead, likely the first step in an ambitious strategy to overturn Roe versus Wade, and we believe it would be a tragedy for all women and their families.

Mr. Speaker, it should be emphasized that what we are talking about making a crime is a medical procedure that is used only in very rare cases, fewer than 500 per year. It is a procedure that is needed only as a last resort, in cases

where pregnancies that were planned and are wanted have gone tragically wrong. Adoption of the bill would have these results.

In cases where it is determined that an abortion is necessary to save the life of the women, the Senate amendment would force her to choose a method that may leave her unable to bear children in the future. The language of the Senate amendment will not protect women whose lives are threatened by their pregnancies, and doctors will be forced to choose other procedures, even if they are more dangerous.

Mr. Speaker, choosing to have an abortion is always a terribly difficult and awful decision for a family to make, but we are dealing here with particularly wrenching decisions in particularly tragic circumstances. It seems to us that it would be fitting if we showed some restraint and compassion for women who are facing those devastating decisions.

Let me end, Mr. Speaker, by quoting again, if I may, from Mrs. Costello's testimony before the Senate Committee on the Judiciary, just a very brief amount:

Due to the safety of this procedure, I am again pregnant now. Fortunately, most of you will never have to walk through the valley we have walked. It deeply saddens me that you are making a decision having never walked in our shoes. When families like ours are given this kind of tragic news, the last people we want to seek advice from are politicians. We talk to our doctors, lost of doctors. We talk to our families and other loved ones, and we ponder long and hard into the night with God.

What happened to our family is heartbreaking and it is private, but we have chosen to share our story with you because we hope it will help you act with wisdom and compassion. I hope you can put aside your political differences, your positions on abortion, and your party affiliations and just try to remember us. We are the ones who know. We are the families that ache to hold our babies, to love them, to nurture them. We are the families who will forever have a hole in our hearts. We are the families that had to choose how our babies would die. Each one of you should be grateful that you and your families have not had to face such a choice. I pray that no one you love ever does. Please put a stop to this terrible bill. Families like mine are counting on you.

Mr. Speaker, we do, as I have said before, strongly oppose the rule before us and the bill that it makes in order. We urge defeat of the rule so we can sent it back to the Committee on Rules and at least ask for a rule that would allow us to vote on an amendment to preserve the life, under all circumstances, and the health of the mother.

Mr. Speaker, I reserve the balance of my time.

Mrs. WALDHOLTZ. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, before I yield to the next speaker, I think it is important that we recognize that the procedure that we are talking about today is not a legitimate medical procedure recognized by experts of the American Medical Association. With all respect to my colleague on the Committee on Rules, for whom I have great respect and affection, there is no question but that the experience that his constituent had is one that none of us hope we have to share. But, Mr. Speaker, the American Medical Association's Council on Legislation, made up of 12 physicians, voted unanimously to recommend that the American Medical Association board of trustees endorse this partial birth abortion ban.

A member of the council, after they had discussed this procedure, said that they felt that this was not a recognized medical technique, and that the council members had agreed that the procedure was basically repulsive. We are not criminalizing an accepted medical technique, Mr. Speaker. It is unfortunate that we are having to debate what has become medicalized infanticide.

Mr. Speaker, I yield 3 minutes to the gentleman from Florida (Mr. WELDON).

Mr. WELDON of Florida. Mr. Speaker, I thank the gentlewoman for yielding time to me, and I commend her and the Committee on Rules for bringing forth this rule, and the members of the Committee on the Judiciary for originally introducing this legislation.

Mr. Speaker, I was sitting in my office at the time, still practicing medicine in 1993, when I got my copy of the American Medical News in which this procedure was first described where a baby is identified under ultrasound, the abortionist, using a forcep, reaches up into the birth canal and grabs the baby by the feet, dragging the baby out of the birth canal up to the level of its head, and then there, dangling outside the mother, typically with its arms and legs moving, a forcep is inserted into the back of the skull, an opening is created, the brains are sucked out, and the dead baby is then delivered.

I was amazed to read in this article that somebody could actually concoct a procedure this gruesome, and I was further shocked to read that the physicians who developed the procedure then went on to report that in 85 percent of the cases within which they do this procedure, there are no significant birth defects, and some of the defects that they cited, where they justified doing this procedure, included cleft lip and cleft palate.

Mr. Speaker, I was shocked, and frankly I was amazed that I could live in a country where a procedure as gruesome and awful as this could be legalized. Some would call this a safe medical procedure. I would contend that there was a party involved in this procedure where it was anything but safe. Indeed, it was lethal, and it was lethal in a most horrific way.

We in the United States, contrary to the contention of many people, have the most liberal left-wing abortion laws. In Europe, most of Europe that legalized abortion far before we did in this country, this type of procedure is not legal. They have restrictions on how you can do these procedures and when you can do them. Specifically, they are not legalized in late trimester, in late second trimester, and in the third trimester.

My colleague on the other side of the aisle I thought encapsulated the whole issue very well. There are some people who would like the mother to be able to choose how her baby will die. The majority of this body voted once before, and will vote again, that there is a place where the Government of the United States has to draw the line and say, "This is beyond the pale." This is a total repudiation of the principles upon which our Nation was founded. I support the rule. I encourage all my colleagues to vote for the rule.

Mr. BEILENSON. Mr. Speaker, I yield 5 minutes to my good friend, the gentleman from Ohio [Mr. HALL], a fellow member of the Committee on Rules.

Mr. HALL of Ohio. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I rise in support of the Senate amendments to this legislation and was proud to be an original cosponsor of the House-passed bill.

While abortions, except to save the mother's life, are wrong for those of us who believe in life, this particular procedure is doubly wrong. It requires a partial delivery and involves pain to the baby.

Mr. Speaker, you will hear the medical details of these abortions from other witnesses, but I simply lend my support to the bill as one who tries to ascribe to a moral code and commonsense. A compassionate society should not promote a procedure that is gruesome and inflicts pain on the victim. We have humane methods of capital punishment. We have humane treatment of prisoners. We even have laws to protect animals. It seems to me we should have some standards for abortion as well.

Many years ago surgery was performed on newborns with the thought that they did not feel pain. Now we know they do feel pain. According to Dr. Paul Ranalli, a neurologist at the University of Toronto, at 20 weeks a human fetus is covered by pain receptors and has 1 billion nerve cells—more than us, since ours start dying off with adolescence. Regardless of the arguments surrounding the ethics of the procedure, it does seem that pain is inflicted.

Finally, Mr. Speaker, I do not want to discuss a bill relating to abortion without saying that we have a deep moral obligation to improving the quality of life for children after they are born. I am a Member of Congress who is opposed to abortion. But, I

could not sit here and honestly debate this subject with a clear conscience if I did not spend a good portion of my time on hunger and trying to help children and their families achieve a just life once they are born.

We need to promote social policies that ensure the mother and child will receive adequate health care, training and other assistance that will, in turn, enable them to become productive members of society. We have not done a good job so far, and I am afraid to say, this House has been unraveling social programs all too easily. Until our Nation makes a commitment to offering pregnant women and their children a promising future, I am afraid the demand for abortion will not subside.

Enough is enough. If there's one thing this Congress ought to do this year is stop this very reprehensible and gruesome technique of abortion. We treat dogs better than this. Vote yes on this bill.

Mrs. WALDHOLTZ. Mr. Speaker, I yield 2 minutes to the gentleman from Ohio [Mr. CHABOT].

Mr. CHABOT. Mr. Speaker, today we will again vote on whether or not it should be lawful for an abortionist to kill a baby that already has been partially delivered in circumstances where the mother's life is not at risk. Remember, the doctor must grasp two kicking, healthy legs to secure the baby so that he can insert into the child's skull a scissor-like device that causes the brain to collapse, and it kills the child. Even those who advocate this type of abortion shudder to describe it. Only the most extreme ideologue could favor such a gruesome procedure where the mother's life is not in jeopardy.

This whole debate is over whether thinking, feeling, healthy little babies who are within weeks or sometimes even days of natural delivery should be robbed of the opportunity to breathe the same air you and I share. These babies, only inches away from being fully born, are no different from mildly premature babies. They deserve to live.

I celebrate the fact that today we will take a step in representing those who cannot represent themselves by passing the partial birth abortion bill, and I strongly, strongly urge Members to vote for its passage.

Mr. BEILENSON. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. FARR].

Mr. FARR of California. Mr. Speaker, this is not a bill about life, this is a bill about politics. Think about it. The House passed this bill in its original version to ban partial birth abortions. The Senate changed it. The Senate said, "You can make an exception to the ban in the case of the life of the mother." What is going on here? Congress is trying to be your doctor.

I though this was the era of getting Government off our backs, not the era of getting Government more into your personal issues.

□ 1730

Now it seems that we are imposing more Government regulations on a woman's personal life.

It is ironic that this Congress honors this month of March as Women's History Month. We celebrate women overcoming obstacles in their lives, women having liberties, and women having freedom of choice. Now here tonight, in a male-dominated Congress, they want to take away a woman's right to decide what is right for her and for her baby.

I have talked to constituents who have been forced to have this procedure to protect future fertility. I think we are foolish to think that we can handle this issue with our lawmaking process better than women can handle it in the medical arena.

Everyone knows that we cannot save life or make life by ordering it. Do not pass laws that may prevent healthy women from ever, ever becoming loving mothers. Support women. Support womanhood. Reject this rule. Reject this bill. Honor women. Honor medicine. Honor choice. Do not make bad law.

Mrs. WALDHOLTZ. Mr. Speaker, I yield 3 minutes to the gentleman from Tennessee [Mr. BRYANT].

Mr. BRYANT of Tennessee. Mr. Speaker, I rise in support of this rule which I think is a very good one. It allows the Senate amendments that were made to this bill to be accepted by this House, and I believe that the Senate amendments are reasonable and, as I said before, acceptable.

This rule continues to focus on the matter at hand, only the Senate amendments, and for that reason I do not think we need any extraneous amendments to this bill.

When this House considered the bill in the past, the recent past, it passed it by 288 people voting for it, which showed wide bipartisan support for this bill. Now, under the guise of protecting the mother's health, efforts are being made to change this rule or ask for amendments to allow this exception.

The Supreme Court has considered in the case of Roe versus Bolton that to protect the mother's health, that definition of health can encompass all factors, physical, emotional, psychological, familial, and the woman's age, all relevant to the patient's well-being. This type of exception, as we found in California, would open the door wide open to the humane device of this partial-birth abortion, and certainly would be unacceptable.

Even many of the people that voted in the House earlier for this bill which outlawed this particularly terrible procedure would call themselves prochoice.

I find it somewhat ironic, too, as we are taking up the Endangered Species Act on this Hill and we are talking about preservation of animals in particular, that we actually protect the American eagle and its preborn, the egg of that eagle, more than we protect the preborn of a human being. It is actually a fine of $500 to $5,000, up to 1 year in prison, for destroying an eagle egg, a preborn eagle.

But this issue here is not about the big issue of abortion, but simply outlawing a particularly egregious and terrible procedure that is used. As I argued on the floor before, were we to transfer this type of procedure over to a way of executing people who have committed murder, on death row, there would be many in this body that would be the first to stand up or encourage people to go to court to stop this type of procedure as in violation of the eighth amendment to our Constitution which prohibits cruel and unusual punishment. Were we to take someone, instead of electrocuting them or using the gas chamber or, as in Utah, using the firing squad, and take a screwdriver and crack their skull and suck out their brain, which is this procedure that is used in this particular type of abortion, again we would be in court very quickly to defend that particularly terrible procedure, and I would agree on that.

The example that we used in our earlier debate occurred in Washington State, where a man on death row actually went to court and was able to set aside temporarily his death row conviction or the execution of the death penalty because he was so heavy, over 400 pounds, that he would be decapitated were he hung as was the procedure in Washington.

We have precedent for this, and I would simply say that the American Medical Association Council on Legislation has voted unanimously to recommend that the AMA endorse this bill. I think their opinion would carry an awful lot of weight.

Mr. Speaker, I was very pleased when this body passed H.R. 1833, the Partial-Birth Abortion Ban Act, by an overwhelming 288-to-139 margin. Today we consider the Senate's amendments to the bill and the rule.

The Senate passed the Partial-Birth Abortion Ban Act with similar bipartisan support. And that body's amendments are reasonable and acceptable. Furthermore, the rule simply addresses the matter at hand—the Senate amendments. There is no reason to consider extraneous amendments.

Unfortunately, the President and proabortion extremists continue to oppose this modest, widely supported bill. The President has threatened to veto this bill because it doesn't have amendments that would allow this gruesome procedure for virtually any reason. Under the guise of protecting the mother's health, the radical abortionists want to add a health-of-the-mother exception. The bill already would allow the partial-birth abortion procedure if the abortion was necessary to save the woman's life, and this procedure was the only method of doing so.

However, to add "health" would be tantamount to writing in a loophole through which a Mack truck could be driven. While protecting a mother's health may sound reasonable on its face, the Supreme Court has defined "health" as anything that relates to one's well-being. Does that mean that being depressed or having a cold or allergies or a headache could qualify as jeopardizing health under such an open-ended definition? Certainly. In fact, the Court held in Doe versus Bolton that "health" encompasses "all factors—physical, emotional, psychological, familial, and the woman's age—relevant to the well-being of the patient." Therefore, to add "health" to this legislation would gut the bill.

The fact is, according to the doctors who perform most of this type of abortion, 80 percent of partial-birth abortions are elective. That means they are for almost any reason.

Mr. Speaker, let's be completely clear about the procedure that this bill would ban. The opponents of this bill would direct the debate to side issues, and for good reason: If the American people know the facts, they'll want this horrible abortion procedure banned.

While all methods of abortion are repulsive, barbaric, and nauseating, this abortion method reaches depths of inhumanity that only a calloused conscience could approve of.

Remember that this abortion procedure takes place during the second trimester or later. That's after the baby's heart is beating, which occurs at about 3 weeks after conception. That's after the baby's brain waves can be measured, which happens at 6 weeks. That's after morning sickness has usually subsided, after 3 months.

First, the abortionist uses ultrasound—an amazing, high-technology medical tool that gives doctors and parents-to-be a look at the baby inside the womb—the abortionist uses this tool of life as a tool of death. He uses ultrasound to guide his forceps to grab the unborn baby's leg.

Second, the abortionist pulls the baby by his leg into the birth canal and proceeds to deliver the baby's entire body, except for the head.

Next, the abortionist jams scissors into the base of the baby's skull. That's the usual point when the baby dies. Let me interject here that the only thing that separates this act from murder is the fact that the baby's head is still in the birth canal.

Finally, the abortionist removes the scissors and inserts a suction catheter. The baby's brains are sucked out, collapsing the skull. The dead baby is then fully delivered. That's a partial-birth abortion.

Some of the so-called antichoice extremists who support this bill include the American Medical Association's Council on Legislation, which voted unanimously to recommend that the AMA endorse H.R. 1833. The council made that recommendation because its members concluded that partial-birth abortion is not a legitimate medical procedure. This statement begs the question, if partial-birth abortion isn't an acceptable medical procedure according to a professional body in the field of medicine, then what is this procedure? It certainly doesn't reflect the Hippocratic oath, which says doctors should first do no harm.

It is ironic that we wouldn't treat convicted capital offenders this way. The ACLU would be up in arms and in court and crying "cruel and unusual punishment" if a State tried to stab scissors in the base of the prisoner's skull and then suck out his brains with a vacuum cleaner.

In fact, a court in Washington State ruled that hanging convicted murderer Mitchell Rupe, who weighted 400 pounds, would be cruel and unusual punishment. Rupe had appealed his death penalty by arguing that because of his excessive body weight, the noose would decapitate him, and that would be cruel and unusual punishment. The appellate judge agreed with this man, who had been convicted on two counts of first-degree murder.

Mr. Speaker, H.R. 1833 bans the performance of partial-birth abortions, the gruesome procedure that I have described.

As medical technology continues to develop to the point where surgery can be performed on unborn babies, where more and more premature babies survive, where doctors can perform increasingly sophisticated techniques that just 10 or 20 years ago we would have thought of as medical miracles, it's time to take a hard look at biological and medical facts.

H.R. 1833 bans a single abortion technique that even many people who call themselves pro-choice support the banning of. But what are the ethical and moral questions we as a society need to confront? Do the medical facts we have today support the ignorant bliss on which Roe versus Wade and Doe versus Bolton were decided? Is this country still a civilized society? What kind of a people would allow the partial birthing of a half-gestated baby, only to be stabbed with surgical scissors and his brains sucked out, knowing the biological facts we have in 1996?

It is also ironic that this Nation protects unborn eagles more vigorously than it protects unborn human beings. We punish people under three different acts—the Migratory Bird Treaty Act (16 U.S.C. 703), the Bald Eagle Protection Act (16 U.S.C. 668), and the Endangered Species Act (16 U.S.C. 1538 and 1540)—for destroying an eagle egg. The Migratory Bird Treaty Act provides for penalties up to $500 in fines and 6 months in prison for destroying an eagle egg. The penalty under the Bald Eagle Protection Act is a fine up to $5,000 and a year in prison. The Endangered Species Act provides for civil and criminal penalties; the criminal penalties for knowingly destroying an eagle egg, depending on the location where the egg is found, range to $50,000 in fines and 1 year in prison. Unborn eagles have that much protection under law. However, unborn human babies may be aborted at any time throughout the pregnancy. And in the case of partial-birth abortion, the baby can even be forcibly, partially delivered in order for the abortionist to destroy that baby's life.

Mr. Speaker, I have faith that the American people will make the right decision. Give the American people the facts, as has been done regarding partial-birth abortion, and they will arrive at the civilized, decent conclusion that this procedure should be outlawed. I believe the American people will remain true to our Nation's core values, that we are all endowed by our Creator with certain unalienable rights, foremost being the right to life.

I conclude with these verses from Psalm 139: "For you created my inmost being; you knit me together in my mother's womb. * * * My frame was not hidden from you when I was made in the secret place. When I was woven together in the depths of the earth, your eyes saw my unformed body."

Mr. Speaker, I urge that we accede to the Senate's amendments. I urge that we adopt this rule. And I urge the President to reconsider his veto threat.

Mr. BEILENSON. Mr. Speaker, I yield 5 minutes to the gentleman from Massachusetts [Mr. FRANK], who serves on the Committee on the Judiciary.

Mr. FRANK of Massachusetts. Mr. Speaker, we will get to debate the substance of the bill, although very briefly. The gentlewoman from Utah [Mrs. WALDHOLTZ] said that this rule provides adequate time to discuss the Senate amendments. This rule, in fact, provides quite deliberately the minimum time that it is legally possible to give a bill on the floor of the House.

The rule gives 1 hour. That is the minimum that is allowed under the basic rules, so this is part of an effort to suppress debate and discussion on this bill. We will get to the substance, but I want to talk here about the outrageous procedure. It is one more example of this majority running absolutely roughshod over the notion of open debate and democracy and fairness. This is, once again, a rule as we say in previous weeks where to achieve their political purpose, to make sure that their political message is unadulterated, the majority sacrifices the right of the American people to have free debate.

For example, the gentlewoman from Utah talked about the amendment that was adopted in the Senate. She said people felt that the life exception for the mother was not done right so the Senate straightened it out. Many of us raised that same point here in the House, and why did we not straighten it out here in the House? Because they had the same rules the last time. The rule did not allow that amendment. It is an amendment that we in the House were prevented from considering because of the close-fisted rule of the majority on this bill.

The Senate did adopt the amendment, so they are giving in and they say, "OK, we will do it". They are almost taking credit for the improvement the Senate made when they refused to allow us to vote on such an amendment here. Now we have another amendment that we want to offer, and I understand here that we cannot even offer a motion to recommit this.

It is a very cleverly crafted procedure they have. This is not a bill. It is a concurrence with the Senate amendment because, by making it that way, we cannot even recommit it and no amendments are in order. We can do nothing in the House to alter this. We can vote up or down. We have twice

been asked by the majority, not asked, directed by the majority to vote on this very important issue with no amendment and with the minimum time for debate allowed under the rules of this House.

They want to do it. They want to do it quickly and have as little conversation as possible because it will not stand up, apparently, they believe, to greater scrutiny. They are afraid to allow an amendment.

We have an amendment that we offered, the gentlewoman from Colorado and I. It is an amendment that was offered in the Senate. The Senate adopted one amendment and then the Senate rejected another but it got 47 votes. We are hardly talking about some fringe position; 47 votes, including Republican votes, in the Senate, and we are not being allowed to offer it here.

We cannot do it on the motion to recommit because there is no committee to which it can be recommitted. This is simply a motion to concur in the Senate amendment, and what is the amendment that the majority is afraid to allow the House to vote on?

They cannot plead time. We are less busy than the guys in "Marty," standing around on the corner. "What do you want to do tonight?" "I don't know. What do you want to do tonight?"

Voting is not one of the things, because the majority cannot get itself organized. We have hardly overvoted ourselves this week, but the majority is afraid to allow the amendment.

The amendment says the doctor will not be considered a criminal and sent to prison if he performs this procedure to prevent damage to the health of the mother. If a doctor were to decide that this procedure was necessary to avoid damage to the mother's ability to give birth in the future, he would be committing a crime if he did it because the majority will not even let us vote on an amendment that would say to avoid damage to her ability in the future to bear children. We are talking about serious adverse health effects.

At the Committee on Rules, the majority allowed a debate in the Committee on Rules. They did not want to but they cannot shut us up. They are probably working on a way to do that in the Rules Committee.

The gentlewoman from Colorado said this is so broad. What do we mean by health? My answer is simple. I think serious adverse health is good enough, and I am prepared to put the doctor's opinion up.

But if you think that is too broad, then amend the amendment. My colleagues on the other side of the aisle are afraid of open debate. If you think serious adverse health is too broad, why do you not put very, very, really serious adverse health? Or if you are afraid of psychological, put physical health. I do not agree with that. I would vote against that, but if you want to avoid serious physical damage to the mother but do not want to let in depression, then allow us to vote on it.

But your preferred procedure which you are imposing successfully on this House, I am afraid, I reemphasize this, that procedure requires us to vote and will not allow an amendment that would say to a doctor if you perform this procedure, and by the way it is called a procedure by the American College of Obstetricians and Gynecologists. I will put their letter in opposition to this in the RECORD. You are saying that we cannot even offer an amendment that would say to avoid serious damage to the mother's physical health. Our amendment does not say that, but you could amend the amendment and make that in order.

I know that democracy seems complicated to people who have so little practice with it. You are instead going to demand that we vote to make it criminal even if a doctor wanted to prevent serious physical damange to the health of the mother.

Mr. Speaker, I include the following letter for the RECORD:

THE AMERICAN COLLEGE OF OBSTETRICIANS AND GYNECOLOGISTS,
Washington, DC, November 1, 1995.

STATEMENT ON H.R. 1833: THE PARTIAL-BIRTH ABORTION BAN ACT OF 1995

The American College of Obstetricians and Gynecologists is disappointed that the U.S. House of Representatives has attempted to regulate medical decision-making today by passing a bill on so-called "partial-birth" abortion.

The College finds very disturbing any action by Congress that would supersede the medical judgment of trained physicians and that would criminalize medical procedures that may be necessary to save the life of a woman. Moreover, in defining what medical procedures doctors may or may not perform, the bill employs terminology that is not even recognized in the medical community—demonstrating why congressional opinion should never be substituted for professional medical judgment.

The College does not support H.R. 1833, or the companion Senate bill, S. 939.

Mrs. WALDHOLTZ. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to simply respond quickly. The gentleman from Massachusetts is an excellent student of the rules of the House, and as such an excellent student of the rules of the House the gentleman knows that the minority had an opportunity to offer a motion to recommit when the House originally considered this bill. At that time the gentleman could have offered his amendment. He chose not to. The minority chose to not offer a motion to recommit. This bill went over to the Senate. It is back now for our concurrence.

Mr. Speaker, I yield 2 minutes to the gentleman from Michigan [Mr. BARCIA].

Mr. BARCIA. Mr. Speaker, I rise today in support of House Resolution 1833, the Partial-Birth Abortion Ban Act, and I urge my colleagues to vote in favor of the rule and the final passage of this important legislation.

As a pro-life advocate I am committed to protecting the rights of unborn children. My primary concern is that abortion should not be treated like a routine medical procedure. Although some consider partial-birth abortions routine medical procedures, this could not be further from the truth. Partial-birth abortions are neither routine, legitimate or necessary.

Partial-birth abortions are most often performed in the second or third trimester. I am particularly troubled by the horrifying prospect of late term abortions. Even in Roe versus Wade, abortions are limited to the first trimester. Today we are considering continuing to allow abortions through the third trimester of fetal viability.

House Resolution 1833 not only bans the performance of this type of inhuman abortion but it imposes fines and a maximum of 2 years of imprisonment for any person who administered a partial-birth abortion. This gruesome and brutal procedure should not be permitted.

I strongly believe in the sanctity of life, and if 80 percent of the abortions are elective, we have to reconsider and reevaluate the value our society places on human life. This decision is not made in the case of rape or incest, not if the mother's life is in danger, and not if there are birth defects. In many cases this is a cold, calculated, and selfish decision.

This is not a choice issue. This is a life or death issue for an innocent child. Please join me in making this heinous procedure illegal.

Mr. BEILENSON. Mr. Speaker, I yield 3 minutes to the gentlewoman from New York [Ms. SLAUGHTER].

Mrs. SLAUGHTER. Mr. Speaker, in every way this debate today is a tragedy.

First, I want to make it very clear, as clear as I can to people who are interested in knowing the truth, that the third trimester abortions, and the partial-birth abortions are very rare and they are not done as elective surgery at all. They are done in the case of a severely deformed fetus, a dead fetus, or a mother who will not survive until the birth is completed.

It is not a case of grabbing hold of two kicking legs and delivering a child that will be able to grow and respond to life. It is not a case of that at all. Why do we add to the awful tragedy of the families that desperately want the children that they are carrying and lose? Why do we say that the Congress of the United States knows better than the parents do and better than their doctor does, and we are going to require that they continue this pregnancy.

I am scared about the precedent that this legislation sets. To say that the

procedure, practice and procedure, should be left to the Congress of the United States and not to medical people is a dangerous idea. A physician cannot choose this procedure even if other procedures would have serious health consequences, and we have talked about that, the possibility of loss of fertility.

□ 1745

But the underlying thing that last bothered me ever since I have been in the Congress of the United States is there is another underlying piece here, and that is that women do not have the right to choose, maybe they are not smart enough, we cannot let them decide what is the best thing in the world for them to do. Some men have to sit around and decide what is best, usually deciding that in legislatures all over the country and this Congress what it is that we can say is appropriate for them.

It is not original with me, but if women were that dumb, how in the world does anybody here expect that they had had a mother who bore them and raised them to extraordinary lengths that they are today? Had a Member of the Congress of the United States. Just like any other patient, a woman deserves the best care based on the best circumstances and the knowledge that it fits her situation. It should not be tailored to fit the needs of Members of Congress or any ideas that they may have. Women should not be considered second-class citizens and that needs a big brother to tell her what is permissible and what is not.

Unfortunately, I think this is only a beginning. The bill's sponsors have consistently stated this is a first step and, if they have the votes, they will prevent all abortion. I think many of them would also prohibit birth control. They want Government intrusion into every doctor's office and eventually into every bedroom. We should not start down this road. We should not prohibit medical procedures by Government fiat. We should not prohibit physicians and patients from making informed decisions based on the individual facts of the particular case.

Mr. Speaker, I ask defeat of this rule, which prohibits this House from modifying the draconian antiwoman provisions of this bill. I then ask my colleagues to preserve the right of women to the most appropriate medical procedure based on the best medical advice by defeating this underlying bill.

Mrs. WALDHOLTZ. Mr. Speaker, I yield myself such time as I may consume.

I think it is important to point out the definition of elective and nonelective abortion regarding third-trimester abortions. In this particular situation, it depends on the definition of the person expressing it. One of the doctors who pioneered the partial-birth abortion procedure, as he called it, said the third trimester abortions he performed this way are nonelective, but he said that these abortions also are caused by factors such as maternal risk, rape, incest, psychiatric or pediatric indications. This doctor's definition of nonelective are extremely broad. He went on to tell the Subcommittee on the Constitution that he had performed more than 2,000 of these partial-birth abortions and that he attributed over 1,300 of them to what he called fetal indications or maternal indications.

Of those indications, the most common maternal indication was depression. Other maternal indications included what he called pediatric pelvis, their youth, spousal drug exposure, and substance abuse. Clearly, Mr. Speaker, what is elective or nonelective varies widely depending on the purpose of the person offering the definition.

Mr. Speaker, I yield 1 minute to the gentleman from Indiana [Mr. SOUDER].

Mr. SOUDER. Mr. Speaker, first I want to agree with the earlier speaker that this amendment is actually not needed. We in the House had already protected life of the mother, but in the new language, "necessary to save the life of the mother whose life is endangered by a physical disorder, illness, or injury, provided that no other medical procedure would suffice for that purpose," makes it clear this has nothing to do with life of the mother.

I would also like to address the question of whether we men are trying to regulate women. I think one of the tragedies of this country are men who beat their spouses, mothers and fathers who treat their children as though they are objects to abuse. The question here is whether it is human life. If it is human life, it has nothing to do with whether it is the right of the woman or the right of the man to kill this child.

If we disagree over life, that is one thing. But to act like we are trying to do anything other than protect an innocent life is unfair. In this case, the life is a life. If its head pops out a little bit further but if the legs are out and the heart is beating and the head is inside, then you jab it, it is not a human life. This is a debate over human life, not the rights of women and men.

Mr. BEILENSON. Mr. Speaker, I yield 2 minutes to the gentleman from West Virginia [Mr. WISE].

Mr. WISE. Mr. Speaker, abortion is a tough debate under any circumstances, and an emotional one. But I think the reason I oppose this rule and oppose this measure is because in this one this debate is wrongly directed. This is not an issue about whether or not a woman should have a right to choose or what state a fetus is viable or when life begins. The tragic situation in this case is that overwhelmingly the women affected do not want an abortion. They wanted to have this child. But it is being performed in the last trimester because of medical necessities. There are less than 500 of these procedures performed a year. And, yes, what are some of the situations? This has been a pretty graphic debate. Some of the situations, such as brains that have developed outside the fetus's skull, a situation where the woman's health, the mother's health is significantly endangered, once again, this woman, this couple having their child, want to have this child in the overwhelming number of cases I have been able to find, yet they are not able to. They find this out in the last trimester. I have got problems with Congress, a lot of people have problems getting involved in different areas. A lot of people have problems with Congress making important medical decisions, particularly when a woman's life is possibly endangered.

Under this amendment, it is improved a little bit from leaving the House. The prosecution has to show beyond a reasonable doubt the doctor performed this procedure improperly except the only way you get to that point is you charge the doctor and bring that physician to trial. For exercising medical judgment, a physician goes to trial. He or she cannot perform this procedure even to safeguard the severe adverse health effects to the mother, only for the life of the mother.

I guess what concerns me the most is that in this legislation they would permit the doctor to be charged but the woman who requested that understood that something has to be done, requested something be done, she is not charged. This whole thing does not belong in the Congress, and Congress should not start down this road.

Mrs. WALDHOLTZ. Mr. Speaker, I yield 7 minutes to the gentleman from New Jersey [Mr. SMITH].

Mr. SMITH of New Jersey. Mr. Speaker, I thank the gentlewoman for yielding me this time.

Mr. Speaker, for more than two decades the multimillion-dollar abortion industry has sanitized abortion methods by aggressively employing the most clever and most benign of euphemisms market research can buy. Until today they succeeded in a massive coverup about the sickening truth about abortion methods, including chemical poisoning of the child by highly concentrated salt water or some other potion, dismemberment of the baby's fragile body by a knife connected to a suction machine that is 20 to 30 times more powerful than the average vacuum cleaner, and now brain extraction, the method at issue today, as if the child's brain were a diseased tooth in need of extraction or a tumor to be excised. Make no mistake about it, Mr. Speaker, partial-birth abortion is child abuse. And those who do it today have an unfettered right to kill. We can revoke that license to kill, Mr. Speaker, and we must. If the President vetoes this legislation, then he alone

will have empowered the abortionist to kill babies in this way. If he vetoes this bill, he renews this license to kill. He bears the responsibility for the thousands of kids who will die from this hideous method of abortion. Veto this bill, and there is no doubt whatsoever in my mind that Bill Clinton will go down in history as the abortion President.

Mr. Speaker, the abortion lobby lies to women and they lie to society at large, and they usually get away with it. But not this time. On this issue, they have said that partial-birth abortion is used primarily to save the life of the mother, an exception included in the bill, or for the deformity of the child. Leaving aside the inhumane notion that handicapped kids are throwaways or are to be construed as so much garbage, I thought we took care of that with passage of the Americans with Disabilities Act, which said that handicapped people have rights and they have inherent value, and we need to respect that.

Nevertheless, the fact of the matter is then, perhaps most of the partial-birth abortions procured in the United States are elective; in other words, they are abortions on demand. Dr. Martin Haskell, an abortionist who alone has performed over 1,000 partial-birth abortions, said in a tape recorded interview with the American Medical News that of the procedures he does, from 20 to 24 weeks, 80 percent are, "purely elective."

Mr. Speaker, the abortion lobby has also said that anesthesia kills the babies before they are removed from the womb. Even if that excuse were true, even if that rationalization were true, it would still mean that a baby dies. But again it is another lie. The American Society of Anesthesiologists, the ASA, has testified that such an assertion by the abortion lobby has, and I quote, "absolutely no basis in scientific fact," and is, "misleading and potentially dangerous to pregnant women." According to the ASA general anesthesia given to a pregnant woman does not kill nor does it injure an unborn baby or even provide the baby with protection from pain. And Dr. Haskell himself has said that local anesthesia he uses has no effect on the baby.

Mr. Speaker, to my left is a chart, one of a series of charts, medically correct, a diagram of what the actual procedure is all about. In a paper given by Dr. Haskell to the National Abortion Federation in 1992, entitled "Second Trimester Abortion From Every Angle," in September Dr. Haskell describes the partial birth abortion this way. Remember, this man, one of the pioneers who is trying to promote the use of this despicable form of child abuse, and he says, and I quote,

> With the instrument, when the instrument appears on the sonogram screen, the surgeon is able to open and close its jaws and firmly and reliably grasp a lower extremity of the child. The surgeon then applies firm traction to the instrument, causing a version of the fetus and pulls the extremity into the vagina.

He then goes on to say that,

> With a lower extremity in the vagina, the surgeon uses his fingers to deliver the lower extremity, then the torso, the shoulders, and then the upper extremities, the skull lodges in the internal cervical os. Usually there is not enough dilation for it to pass through. At this point, the right-handed surgeon slides the fingers of the left hand along the back of the fetus and hooks the shoulders of the fetus with the index and ring fingers palm down, while maintaining tension, lifting the cervix and applying traction to the shoulders with the fingers of the left hand. The surgeon takes a pair of blunt curved Metzenbaum scissors in the right hand. He carefully advances its tip curved down along the spine and under his middle finger until he feels it contact the base of the skull.

Mr. Speaker, according to Dr. Haskell, the surgeon then forces the scissors into the skull, right into the skull of that baby. And then he introduces a, suction catheter, holds it and excavates the skull contents.

Mr. Speaker, one nurse, a registered nurse by the name of Brenda Pratt Schaefer, witnessed several of these partial-birth abortions while working for Dr. Haskell. She said, in describing the process that,

> The baby's body was moving, his little fingers were clasping together, he was kicking his feet. All the while his little head was still stuck inside. Dr. Haskell took a pair of scissors, inserted them into the back of the baby's head. Then he opened the scissors up. Then he stuck a high-powered suction tube into the hole and sucked the baby's brains out.

This is child abuse, Mr. Speaker, let us face reality. And we can stop it.

Finally, just let me say, Mr. Speaker, I want to commend the distinguished gentleman from Florida, Mr. CANADY, the chairman of the subcommittee, for his courage in bringing this very important human rights legislation to the floor. The other side hates him for it. The abortion, lobby certainly does. They hate many others who fight for unborn kids.

But just let me say, protecting children and protecting human rights is always difficult. I serve as the chairman of the Subcommittee on International Operations and Human Rights. For 16 years I have been promoting human rights abroad. This, I would say, and submit to my distinguished colleagues, is a human rights abuse. Children are being slaughtered, some say 500, as if 500 is a small number of executions. That is, I think, a very conservative estimate; it is very likely many, many more than that. And it is being promoted as a method of choice.

□ 1800

I would submit that we have the opportunity today to stop this kind of child abuse and to protect little children from this kind of killing. We ought to do it. Support the rule and support the bill.

Mr. BEILENSON. Mr. Speaker, I yield 1½ minutes to the gentlewoman from New York [Mrs. MALONEY].

Mrs. MALONEY. Mr. Speaker, I rise in strong opposition to this rule. The bill in question presents a direct challenge to Roe versus Wade. As one member of the majority boasted, "We intend to ban a woman's right to choose, procedure by procedure." I take him at his word, because this legislation will do just that.

I would like to put a human face on this debate and talk about Coreen Costello, who is pictured here. Coreen Costello would have taken any child that God would have given her, regardless of any handicap. But this child, the child that she was expecting, was not a child that could live. The Dole amendment would not have allowed Coreen Costello to use the procedure that now allows her to have other children. She is currently expecting yet another child. The Committee on Rules denied an amendment that would keep Coreen Costello's doctor out of jail.

I urge Members to have a heart. Vote humanitarian, vote for children, vote for women, vote for families, vote against this rule.

Mr. BEILENSON. Mr. Speaker, I yield the balance of my time to the gentlewoman from Colorado [Mrs. SCHROEDER].

The SPEAKER pro tempore (Mr. ROGERS). The gentlewoman from Colorado is recognized for 4 minutes.

Mrs. SCHROEDER. Mr. Speaker, I thank the gentleman from California for yielding me time.

Mr. Speaker, I eagerly, eagerly ask Members to vote against this rule. This rule is one more gag rule put on doctors dealing with women and their families in the most difficult situations that any family would ever have to face. I think it is unbelievable that we are gagging Members of Congress from being able to deal with the severe and adverse health conditions a woman can have, and that is what is being done. We are not being allowed to present that amendment.

The reason we are doing this today is really all political. Let us be honest. We have a letter from the President pointing out he will veto this bill in this form because it violates Roe versus Wade. We now have a new decision, a 100-page decision in Ohio, where the same kind of procedure was tested and the court said no, that is violative of Roe versus Wade.

We have heard so many statements made here that were incorrect, that you do not even know what to say.

People get up and they obsess on this, they obsess on this procedure and they obsess on all this stuff. The real issue is, show me an obstetrician and gynecologist that is going to do something terrible and evil and awful. We

try to make this into a witch trial. Show me parents that would want this.

These are crisis situations, where everything has gone wrong. We are only talking here about late, late abortions, where people were clinging to that child trying to go as far as possible. If we deny this kind of procedure, we are going to be denying to young parents their chance to have another shot at being a parent, which is probably one of the most driving desires anyone has.

Why do I say that? Because there are other procedures available. Sure, you could have a hysterectomy. There are other procedures available. But, guess what? You lose your reproductive organs. This procedure has been put together so that the reproductive system can remain whole and they get another shot at parenthood.

Should that not be okay? You hear people talk about how these are elective. Elective? These are not elective. Who in the world would sign up for a process like this, unless it was absolutely essential.

This bill does not do anything about early abortions in the first trimester. Remember what Roe versus Wade said? In the first trimester, you could do whatever. That is the elective part. We are talking about the late part, where Roe versus Wade said States can regulate this except in the case of life and severe health consequences to the mother.

Here is a mother that is happy we did not interfere in that, because she has gone on to be able to have another child, and she lived to see these two children grow to adulthood.

Is it the position of this Congress that other women in the future cannot have that opportunity? Are we going to move in and tell the doctors that would look at her health rather than this law, guess what, they go to prison for 2 years? Are we going to start criminalizing these medical procedures?

This is the first medical procedure we will ever have criminalized. Is that not interesting?

Mr. Speaker, I will put in the RECORD a letter from the American Nurses Association speaking clearly that they are opposed to this bill, and the American College of Gynecologists and Obstetricians, who are the ones that are the specialists who deal with this. They are opposed to this bill.

Mr. Speaker, we ought to be listening to the specialists and to the people who are talking about this. If we really think our medical profession is so badly trained in America, so against life that they are out doing these grizzly, terrible things, then we better look at the whole medical profession. But I do not think so. I hear this obsessing that you are hearing, which is wrong.

Vote "no" against this rule. Allow women to have their severe health consequences taken into consideration.

THE AMERICAN COLLEGE OF OBSTETRICIANS AND GYNECOLOGISTS DOES NOT SUPPORT H.R. 1833

DEAR COLLEAGUE: I thought you might be interested in the following statement released by the American College of Obstetricians and Gynecologists. Protect women's health by voting "No" on H.R. 1833.

PAT.

THE AMERICAN COLLEGE OF OBSTETRICIANS AND GYNECOLOGISTS,
November 1, 1995.

STATEMENT OF H.R. 1833—THE PARTIAL-BIRTH ABORTION BAN ACT OF 1995

The American College of Obstetricians and Gynecologists is disappointed that the U.S. House of Representatives has attempted to regulate medical decision-making today by passing a bill on so-called "partial-birth" abortion.

The College finds very disturbing any action by Congress that would supersede the medical judgment of trained physicians and that would criminalize medical procedures that may be necessary to save the life of a woman. Moreover, in defining what medical procedures doctors may or may not perform, the bill employs terminology that is not even recognized in the medical community—demonstrating why congressional opinion should never be substituted for professional medical judgment.

The College does not support H.R. 1833, or the companion Senate bill, S. 939.

AMERICAN NURSES ASSOCIATION,
Washington, DC, November 8, 1995.

Hon. BARBARA BOXER,
U.S. Senate,
Washington, DC.

DEAR SENATOR BOXER: I am writing to express the opposition of the American Nurses Association to H.R. 1833, the "Partial-Birth Abortion Ban Act of 1995", which is scheduled to be considered by the Senate this week. This legislation would impose Federal criminal penalties and provide for civil actions against health care providers who perform certain late-term abortions.

It is the view of the American Nurses Association that this proposal would involve an inappropriate intrusion of the federal government into a therapeutic decision that should be left in the hands of a pregnant woman and her health care provider. ANA has long supported freedom of choice and equitable access of all women to basic health services, including services related to reproductive health. This legislation would impose a significant barrier to those principles.

Furthermore, very few of those late-term abortions are performed each year they are usually necessary either to protect the life of the mother or because of severe fetal abnormalities. It is inappropriate for Congress to mandate a course of action for a woman who is already faced with an intensely personal and difficult decision. This procedure can mean the difference between life and death for a woman.

The American Nurses Association is the only full-service professional organization representing the nation's 2.2 million Registered Nurses through its 53 constituent associations. ANA advances the nursing profession by fostering high standards of nursing practice, promoting the economic and general welfare of nurses in the workplace, projecting a positive and realistic view of nursing, and by lobbying the Congress and regulatory agencies on health care issues affecting nurses and the public.

The American Nurses Association respectfully urges you to vote against H.R. 1833 when it is brought before the Senate.

GERI MARULLO,
Executive Director.

Mr. BEILENSON. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Texas [Ms. JACKSON-LEE].

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise in opposition to the rule and legislation of H.R. 1833, for the dastardly impact on the life and health of the mother and the fetus and the physicians.

Mr. Speaker, I rise in opposition to the rule for H.R. 1833. We must be allowed to offer amendments to H.R. 1833, specifically, those which would provide for a true exception to save a woman's life, or for serious, adverse health consequences to the woman, including her future fertility, or where there exists severe or potentially fatal fetal abnormalities.

In 1973, and more recently in 1992, the Supreme Court held that a woman has a constitutional right to choose whether or not to have an abortion. H.R. 1833 is a direct attack on the principles established in both Roe versus Wade and Planned Parenthood versus Casey.

H.R. 1833 is a dangerous piece of legislation which would ban a range of late term abortion procedures that are used when a woman's health or life is threatened or when a fetus is diagnosed with severe abnormalities incompatible with life.

Because H.R. 1833 does not use medical terminology, it fails to clearly identify which abortion procedures it seeks to prohibit, and as a result could prohibit physicians from using a range of abortion techniques, including those safest for the woman.

H.R. 1833 is a direct challenge to Roe versus Wade—1973. This legislation would make it a crime to perform a particular abortion method utilized primarily after the 20th week of pregnancy. This legislation represents an unprecedented and unconstitutional attempt to ban abortion and interfere with physicians' ability to provide the best medical care for their patients.

If enacted, such a law would have a devastating effect on women who learn late in their pregnancies that their lives or health are at risk or that the fetuses they are carrying have severe, often fatal, anomalies.

Women like Coreen Costello, a loyal Republican and former abortion protester whose baby had a lethal neurological disease; Mary-Dorothy Lines, a conservative Republican who discovered her baby had severe hydrocephalus; Claudia Ades, who terminated her pregnancy in the sixth month because her baby was riddled with fetal anomalies due to a fatal chromosomal disorder, Vicki Wilson, who discovered at 36 weeks that her baby's brain was growing outside his head; Tammy Watts, whose baby had no eyes, and intestines developing outside the body; and Vikki Stella, who discovered at 34 weeks that her baby had nine severe anomalies that would lead to certain death. All these children were wanted but could not survive. These are the women who would be hurt by H.R. 1833—women and their families who face a terrible tragedy—the loss of a wanted pregnancy.

In Roe, the Supreme Court established that after viability, abortion may be banned by States as long as an exception is provided in cases in which the woman's life or health is at risk. H.R. 1833 provides no true exceptions for cases in which a banned procedure would be necessary to preserve a women's life or health.

The Dole amendment does not cover all cases where a woman's life is in danger. This narrow life exception applies only when a woman's life is threatened by a physical disorder, illness or injury and when no other medical procedure would suffice. By limiting the life exception in this way, the bill would omit the most direct threat to a woman's life in cases involving severe fetal anomalies—the pregnancy itself.

In fact, none of the women who submitted testimony during the Senate and House hearings on this bill would have qualified for the procedure under the Dole life exception. Instead, this bill would require physicians to use an alternative life-saving procedure, even if the alternative renders the woman infertile, or increases her risk of infection, shock, or bleeding. Thus, the result of this provision is that women's lives would be jeopardized, not saved.

This bill unravels the fundamental constitutional rights that American women have to receive medical treatment that they and their doctors have determined are safest and medically best for them. By seeking to ban a safe and accepted medical technique, Members of Congress are intruding directly into the practice of medicine and interfering with the ability of physicians and patients to determine the best course of treatment. The creation of felony penalties and Federal tort claims for the performance of a specific medical procedure would mark a dramatic and unprecedented expansion of congressional regulation of health care.

This bill is bad medicine, bad law, and bad policy. Women facing late term abortions due to risks to their lives, health, or severe fetal abnormalities incompatible with life must be able to make this decision in consultation with their families, their physicians, and their god. Women do not need medical instruction from the government. To criminalize a physician for using a procedure which he or she deems to be safest for the mother is tantamount to legislating malpractice.

I urge my colleagues to vote against this rule so that we can offer amendments which would create true life and health exceptions to the bill. These amendments would allow doctors to continue to perform the procedure which they feel is safest for the mother without risk of prosecution.

True life and health amendments would ensure that mothers, and families, facing tragic circumstances would continue to receive the best possible, and safest medical care available.

Mr. BEILENSON. Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. BECERRA]

Mr. BECERRA. Mr. Speaker, I rise in opposition to the rule and the bill. It is wrong-headed and should fail.

Mr. BEILENSON. Mr. Speaker, I yield such time as she may consume to the gentlewoman from California [Ms. PELOSI].

Ms. PELOSI. Mr. Speaker, I rise in opposition to this legislation, which would prevent doctors from performing a lifesaving medical procedure. This is a direct threat to the health and lives of American women.

Mr. Speaker, we all hope that the number of abortions in this country can be decreased. But this debate is not about abortion. Restricting medical options that endangers the health of women is unconstitutional. The Supreme Court has stated that the Government may ban post-viability abortions, but it cannot restrict abortion when the procedure may be necessary to save the health and life of the mother.

The life exception included in this legislation is far too narrow to protect women's lives effectively. The exception would allow this procedure only as a last resort when a women's life is threatened by physical disorder, illness, and injury—when who other medical procedure would suffice. It does not consider that this may be the safest procedure to protect the health and life of the mother. This so-called life exception would have a women rendered sterile or face critical health risks rather than the use the safe and rare procedure that this legislation is attempting to outlaw.

Families faced with this difficult decision often go on to have successful pregnancies. Yet this legislation does nothing to protect health or future fertility of the mother—in fact, it puts a mother's future fertility at risk.

Mr. Speaker, the so-called partial-birth abortion ban is unconstitutional and inhumane. I urge my colleagues to vote against this legislation.

Mr. BEILENSON. Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. FAZIO].

Mr. FAZIO of California. Mr. Speaker, I rise in opposition to the rule and the underlying legislation.

Mrs. WALDHOLTZ. Mr. Speaker, I yield myself the balance of my time.

The SPEAKER pro tempore. The gentlewoman from Utah is recognized for 3½ minutes.

Mrs. WALDHOTZ. Mr. Speaker, let me address first the question that has been raised regarding this rule and the procedure by which this bill is brought to the floor.

We have heard complaints, Mr. Speaker, that there was not an opportunity to consider an amendment regarding the health consequences to the mother. But in fact, Mr. Speaker, as I pointed out earlier, the minority chose not to exercise its right to offer a motion to recommit when this bill first came to the floor. That was the opportunity, Mr. Speaker, that the minority had to offer whatever it felt was appropriate to change this bill. They decided not to do that. It is a bit disingenuous to complain about that now after the Senate has already taken up the bill, after the House had completed its debate.

In fact, Mr. Speaker, that particular amendment was offered in the Senate and it failed. We know what the definition of health of the mother is, because the Supreme Court provided us that definition in Doe versus Bolton, the companion case to Roe versus Wade, in which the Supreme Court defined health in the abortion context to include "all factors, physical, emotional, psychological, familial and the woman's age relevant to the well-being of the patient."

This is an extraordinary broadening of this bill. This bill was debated by the House, Mr. Speaker. It was debated by the Senate. We are back now to consider whether we should concur in the amendments that the other side has already stated improve the bill, a change that will allow doctors to exercise their best judgment in performing this procedure when it is necessary to save the life of the mother.

The gentlewoman from Colorado said though, Mr. Speaker, that we ought to look to the specialists, to the physicians, in determining whether this is an appropriate piece of legislation. So I wish to close, Mr. Speaker, by referring to the specialists.

First, Mr. Speaker, I would quote from Dr. Martin Haskell, a practitioner of the partial birth abortion method. When Dr. Haskell was asked about the advantages of this particular procedure he did not talk about the life of the mother. He did not talk about the sensation of the fetus. He did not talk about the health risk to the mother. He said this: "Among its advantages are that it is a quick, surgical, outpatient method that can be performed on a scheduled basis under local anesthesia." Those are not emergency measures, Mr. Speaker.

When Dr. Haskell was asked in an interview with Cincinnati Medicine in the fall of 1993, Dr. Haskell said when asked about the impact to the fetus of this procedure, the question, "Does the fetus feel pain?" This is what Dr. Haskell said: "I am not an expert, but my understanding is that fetal development is insufficient for consciousness." He continued, "It is a lot like pets. We like to think they think like we do. We ascribe humanlike feelings to them, but they are not capable of the same level of awareness we are. It is the same with fetuses."

Mr. Speaker, that is what one specialist, a practitioner of partial birth abortion, says about this procedure. But let us turn to another specialist, Dr. Pamela Smith, Director of Medical Education at the Department of ob-gyn at Mount Sinai Hospital in Chicago. Dr. Smith said, "There is absolutely no obstetrical situations encountered in this country that would require this procedure."

Mr. Speaker, I ask for support on this rule.

Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mrs. WALDHOLTZ. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 269, nays 148, not voting 14, as follows:

[Roll No. 93]

YEAS—269

Allard
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bevill
Bilbray
Bilirakis
Bliley
Blute
Boehner
Bonilla
Bonior
Bono
Borski
Brewster
Browder
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clement
Clinger
Coble
Coburn
Collins (GA)
Combest
Cooley
Costello
Cox
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
de la Garza
Deal
DeLay
Diaz-Balart
Dickey
Dingell
Doolittle
Doyle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fox
Franks (NJ)
Frisa
Frost
Funderburk
Gallegly
Ganske
Gekas
Geren
Gilchrest
Gillmor
Goodlatte
Goodling
Gordon
Goss
Graham
Gunderson
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hancock
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Hefner
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Holden
Hostettler
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson, Sam
Jones
Kanjorski
Kasich
Kelly
Kildee
Kim
King
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
LaFalce
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Lipinski
Livingston
LoBiondo
Longley
Lucas
Manton
Manzullo
Martini
Mascara
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
McNulty
Metcalf
Mica
Miller (FL)
Molinari
Mollohan
Montgomery
Moorhead
Moran
Murtha
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Oberstar
Ortiz
Orton
Oxley
Packard
Parker
Paxon
Payne (VA)
Peterson (MN)
Petri
Pombo
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Radanovich
Rahall
Ramstad
Regula
Riggs
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Solomon
Souder
Spence
Stearns
Stenholm
Stockman
Stump
Stupak
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thornberry
Thornton
Tiahrt
Upton
Volkmer
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)
Zeliff

NAYS—148

Abercrombie
Ackerman
Andrews
Baldacci
Barrett (WI)
Becerra
Beilenson
Bentsen
Berman
Bishop
Boehlert
Boucher
Brown (CA)
Brown (FL)
Brown (OH)
Cardin
Chapman
Clay
Clayton
Clyburn
Coleman
Collins (MI)
Condit
Conyers
Coyne
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dixon
Doggett
Durbin
Edwards
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Fields (LA)
Flake
Foglietta
Frank (MA)
Franks (CT)
Frelinghuysen
Furse
Gejdenson
Gephardt
Gilman
Gonzalez
Green
Greenwood
Gutierrez
Hastings (FL)
Hilliard
Hinchey
Horn
Houghton
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jacobs
Jefferson
Johnson (CT)
Johnson (SD)
Johnson, E. B.
Johnston
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Lantos
Levin
Lewis (GA)
Lincoln
Lofgren
Lowey
Luther
Maloney
Markey
Martinez
Matsui
McCarthy
McDermott
McHale
McKinney
Meehan
Meek
Menendez
Meyers
Miller (CA)
Minge
Mink
Moakley
Morella
Nadler
Neal
Obey
Olver
Owens
Pallone
Pastor
Payne (NJ)
Pelosi
Peterson (FL)
Pickett
Pomeroy
Rangel
Reed
Richardson
Rivers
Rose
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Shays
Skaggs
Slaughter
Spratt
Stark
Studds
Thompson
Thurman
Torkildsen
Torres
Towns
Traficant
Velazquez
Vento
Visclosky
Ward
Waters
Watt (NC)
Waxman
Williams
Wilson
Wise
Woolsey
Wynn
Yates
Zimmer

NOT VOTING—14

Bryant (TX)
Collins (IL)
Dooley
Dornan
Filner
Ford
Fowler
Gibbons
Harman
Smith (WA)
Stokes
Thomas
Torricelli
Weldon (PA)

□ 1832

The Clerk announced the following pairs:

On this vote:

Mr. Thomas for, with Ms. Harman against.
Mrs. Fowler for, with Mr. Stokes against.

Ms. FURSE and Mr. GILMAN changed their vote from "yea" to "nay."

Mrs. KELLY changed her vote from "nay" to "yea."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. CANADY of Florida. Mr. Speaker, pursuant to House Resolution 389, I move to take from the Speaker's table the bill (H.R. 1833), to amend title 18, United States Code, to ban partial-birth abortions with the Senate amendments thereto, and concur in the Senate amendments.

The Clerk read the title of the bill.

The text of the Senate amendments is as follows:

Page 2, line 9, strike out [Whoever] and insert: *Any physician who*

Page 2, line 12, after "both." insert: *This paragraph shall not apply to a partial-birth abortion that is necessary to save the life of a mother whose life is endangered by a physical disorder, illness, or injury: Provided, That no other medical procedure would suffice for that purpose. This paragraph shall become effective one day after enactment.*

Page 2, line 13, strike out [As] and insert: *(1) As*

Page 2, after line 16, insert:

"(2) As used in this section, the term 'physician' means a doctor of medicine or osteopathy legally authorized to practice medicine and surgery by the State in which the doctor performs such activity, or any other individual legally authorized by the State to perform abortions: Provided, however, That any individual who is not a physician or not otherwise legally authorized by the State to perform abortions, but who nevertheless directly performs a partial-birth abortion, shall be subject to the provision of this section.

Page 2, line 17, strike out [(c)(1) The father,] and insert: *(c)(1) The father, if married to the mother at the time she receives a partial-birth abortion procedure,*

Page 3, strike out lines 12 through 20.

MOTION OFFERED BY MR. CANADY

Mr. CANADY of Florida. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore (Mr. ROGERS). The Clerk will designate the motion.

The Clerk read the motion.

Mr. CANADY of Florida moves to concur in each of the six Senate amendments to H.R. 1833.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Florida [Mr. CANADY] and the gentlewoman from Colorado [Mrs. SCHROEDER] each will be recognized for 30 minutes.

The Chair recognizes the gentleman from Florida [Mr. CANADY].

GENERAL LEAVE

Mr. CANADY of Florida. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days to revise and extend their remarks on H.R. 1833.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. CANADY of Florida. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise to express my support for the motion to concur in the

Senate amendments to H.R. 1833, the Partial-Birth Abortion Ban Act. H.R. 1833 bans a particularly heinous late-term abortion procedure unless that procedure is necessary to save the life of the mother.

This is partial-birth abortion:

Guided by ultrasound, the abortionist grabs the live baby's leg with forceps.

Mr. Speaker, then the baby's leg is pulled out into the birth canal by the abortionist.

The abortionist delivers the living baby's entire body, except for the head, which is deliberately kept lodged just within the uterus.

Then the abortionist jams scissors into the baby's skull.

The scissors are then opened to enlarge the hold in the baby's skull.

The scissors are than removed, and a suction catheter is inserted.

The child's brains are sucked out, causing the skull to collapse so that the delivery of the child can be completed.

Clearly, the only difference between partial-birth abortion,- the procedure which my colleagues have just seen described, and homicide is a mere 3 inches.

The supporters of partial-birth abortion seek to defend the indefensible, but today the hard truth cries out against them. Despite their relentless effort to misrepresent and confuse the issue, the opponents of this bill can no longer conceal the uncomfortable facts about this horrible procedure.

The ugly reality of partial birth abortion is revealed here in these drawings for all to see.

The Senate amendment to H.R. 1833 makes three acceptable changes to the House passed version of the bill:

First, the Senate amendment clarifies that H.R. 1833 allows a partial-birth abortion to be performed if it is necessary to save the life of the mother. Instead of a life exception in the form of an affirmative defense as passed by the House, the amendment inserts the life exception in the first paragraph of the bill. The effect of the amendment is to force the prosecution to prove beyond a reasonable doubt that the partial-birth abortion was performed to save the life of the mother or that another procedure would have saved her life.

Second, the Senate amendment restricts civil liability under the bill to physicians who perform partial-birth abortions or anyone who directly performs a partial-birth abortion. In other words, the amendment does not allow anyone who assists in a partial-birth abortion to be liable under H.R. 1833.

Third, the Senate amendment allows fathers to sue for damages only if the father was married to the mother at the time the partial-birth abortion was performed.

I believe that if H.R. 1833 is enacted into law with the Senate amendments, it will deter abortionists from partially delivering, and then killing, unborn children.

Unfortunately, Mr. Speaker, President Clinton has threatened to veto H.R. 1833 unless we make gutting changes to the bill. The President does not want to openly defend a procedure that 71 percent of the public says should be banned. Therefore, he is trying to deceive the American people by claiming he supports banning this, as he calls it, disturbing procedure while he has at the same time proposed an amendment that would gut H.R. 1833, making it totally meaningless.

Mr. Speaker, the President wants a bill that allows an abortionist to perform a partial-birth abortion whenever the abortionist says it is to prevent a serious adverse health consequence. The President wants to explicitly leave the definition of serious adverse health up to the abortionist. In Doe versus Bolton, the companion cause to Roe versus Wade, the Supreme Court defined health in the abortion context to include, and I quote, "all factors: physical, emotional, psychological, familial, and the woman's age, relevant to the well-being of the patient." Partial-birth abortions are currently being performed for such health reasons as the mother's depression or young age.

While Dr. Martin Haskell, a prominent practitioner of partial-birth abortion, stated that 80 percent of the partial-birth abortions that he performed from 20 to 24 weeks are purely elective, Dr. James McMahon called the partial-birth abortions he performed in the third trimester non-elective or health related. In documents submitted to the House Subcommittee on the Constitution, Dr. McMahon asserted: after 26 weeks, that is, 6 months, those pregnancies that are not flawed are still non-elective. They are interrupted because of maternal risk, rape, incest, psychiatric or pediatric indications. Dr. McMahon's definition of non-elective is extremely broad.

Accordingly, if President Clinton had his way, even third trimester partial-birth abortions performed because of a mother's youth or depression would be justified to preserve the mother's health. This is simply unacceptable.

Furthermore, Dr. McMahon told the subcommittee that he had performed more than 2000 of what he called intact dilation and evacuation abortions. He attributed more than 1300 of these late-term abortions to fetal indications or maternal indications. The most common maternal indication was depression. Other maternal indications included pediatric pelvis, that is, youth, spousal drug exposure, and substance abuse.

□ 1845

It is never necessary to partially vaginally deliver a living infant at 20 weeks, that is, 4½ months or later, before killing the infant and completing the delivery in order to protect a mother's life or even her health.

During two extensive hearings in the Committee on the Judiciary on H.R. 1833, not one of the medical experts invited to testify by the bill's opponents could point to a single circumstance that would require the use an abortion technique in which the infant was partially delivered alive and then killed. On the contrary, several physicians, including one well-known abortionist, have stated that partial birth abortion poses risks to the health of the mother.

Dr. Pamela Smith, the director of medical education for the Department of Obstetrics and Gynecology at Mr. Sinai Hospital in Chicago, has written:

> There are absolutely no obstetrical situations encountered in this country which require a partially delivered human fetus to be destroyed to preserve the health of the mother. Partial birth abortion is a technique devised by abortionists for their own convenience, ignoring the known health risks to the mother. The health status of women in this country will only be enhanced by the banning of this procedure.

Dr. Martin Haskell, himself, said of a partial birth abortion, "Among its advantages are that it is a quick surgical outpatient method that can be performed on a scheduled basis under local anesthesia."

The President and other proponents of partial birth abortion know that adding an exception for health of the mother to H.R. 1833 is unnecessary and would gut the bill, allowing partial birth abortion on demand.

This is the question I would raise to the President and my colleagues who support abortion on demand: Is there ever an instance when abortion or a particular type of abortion is inappropriate? The vehement opposition of abortion rights supporters to H.R. 1833 makes their answer to my question clear. For them there is never an instance when abortion is inappropriate. For them the right to abortion is absolute, and the termination of an unborn child's life is acceptable at whatever time, for whatever reason, and in whatever way a woman or an abortionist so chooses.

To all my colleagues, I say this, Mr. Speaker: Look at this drawing. Open your eyes wide and see what is being done to innocent, defenseless babies. What we see here in this drawing is an offense to the conscience of humankind. Put an end to this detestable practice. Vote in favor of the motion to concur in the Senate amendments to H.R. 1833.

Mr. Speaker, I reserve the balance of my time.

Mrs. SCHROEDER. Mr. Speaker, I yield 2 minutes to the gentleman from Michigan [Mr. CONYERS], the esteemed ranking member of the committee.

Mr. CONYERS. Mr. Speaker, I rise to make observations about two members of the Committee on the Judiciary, and

I respect all of the members on the committee. First, I have asked the gentlewoman from Colorado, PATRICIA SCHROEDER, to manage this bill, because she will long be remembered for her sensitivity and dedication on a subject that is so difficult for all of us to deal with.

The other Member whose attention I would draw the membership to is the gentleman from Florida [Mr. CANADY], the author of this measure. Mr. CANADY is not a doctor, has never been to medical school, and has created a misnomer in the title of this bill. There is no medical term called "partial birth abortion." It is not in the medical dictionary, the American College of Obstetricians and Gynecologists do not use the term and in fact, has come out very strongly against the bill.

Mr. Speaker, assuming that we are not doctors, let us just talk about the law that we have a responsibility to deal with. Since the measure of the Gentleman from Florida was introduced, a Federal court in Ohio has spoken on a very similar measure and the Ohio Federal court has said very, very clearly that this procedure, the dilation and extraction, or D and X procedure, which was banned by an Ohio statute, is unconstitutional. Similarly, this bill is unconstitutional.

I urge my colleagues to consider that Roe versus Wade, through the constitutional process, has protected a woman's right to choose, for over 20 years. This attempt to ban a class of medically appropriate abortions is not only very discouraging, it is unconstitutional.

Mr. CANADY of Florida. Mr. Speaker, I yield 3 minutes to the gentleman from Oklahoma [Mr. COBURN].

Mr. COBURN. Mr. Speaker, I think it is important that we talk about what this bill is and what it is not. The term abortion is used rather loosely around this body. Abortion, by definition, occurs before 20 weeks. This procedure is not used before 20 weeks. This procedure is used on viable infants, infants who are viable outside of the womb. So as we hear all the confusing dialogue tonight, it is important that everybody realize that infants, 22 weeks gestation, from the time of conception 22 weeks forward, which is actually less than 21 weeks, by normal count, those are viable infants by definition. Today if a baby is born at 22 weeks we do everything we can to save that baby.

So this bill is not about abortion, this bill is about eliminating the murdering of infants who are otherwise viable outside of the womb.

What is this bill? This bill eliminates a procedure that has been designed to be of benefit only to the abortionist. Every complicated pregnancy that might have an adverse outcome in terms of an indication under the present utilization of this procedure can in fact be delivered in a much more humane, much less traumatic, and much more beneficial way to both the infant and the mother. What this bill provides is the respect that a viable fetus deserves, an infant of 22 weeks.

Let us make no mistake about this, this procedure is utilized to terminate otherwise normal infants the vast majority of the time. We are going to hear otherwise on that, but if you think an infant with a cleft palate is someone who needs to be terminated, if you think adolescent females, because they are pregnant. should qualify under this bill, as the President would have us say, because of their adolescence or because of their age, should otherwise be an exception under this bill, then you do not in fact understand what this procedure is all about.

I would urge my colleagues to think about what this bill really is. This is not an abortion. This procedure is a convenient method for some practitioners to terminate the lives of otherwise viable infants.

Mrs. SCHROEDER. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, first of all, let me answer the gentleman who was just in the well. I think it is terribly important to say we were trying to offer the amendment that is the law of the land, which is severe adverse health consequences to the mother. I resent very much hearing that this is about cleft palates and these are designer things and so forth, because this is not, and there is no one in this body trying to make it that way.

Now let me tell you why I hate this debate. I hate this debate because this debate reminds me of my 30th birthday, and let me bring you to my 30th birthday. My 30th birthday was spent in intensive care, an intensive care in which I had been given last rites. I had a 15-day-old baby girl I had not seen and a 4-year-old boy that I was terrified I would not see again. I want to tell the Members, that is scrambling, man. We had doctors, we had everybody running around figuring out what in the world can happen.

I just want to say to people in this Chamber, if you really think families in that situation want you, the U.S. Congress, to come in and tell them which procedures their doctors may use and which ones they may not use, I think you are wrong. I think doctors think this is a zone of privacy and families think this is a zone of privacy, and that we should trust our doctors, although I understand there are some Members here who trust Hamas more than they trust the Government. But I happen to trust my doctor in that instance a whole lot more than I trust you Members of Congress. I want you to know it.

I want you to know I also looked at your drawings. You know what it said on the bottom? It said, "Drawing commissioned by the National Conference of Catholic Bishops." Maybe they deliver babies, and maybe they practice medicine, but I go with the American College of Gynecologists and Obstetricians, because those are the ones I know that deliver babies. I am tired of the playing politics on this. I think America's families are tired of playing politics on this, and I really think that that is all this is about.

I wish there were some way to bring some sanity to this. My time has expired. I have thousands more I could say, but I only want to tell you, my 30th birthday was hell, and because of people like you, I could be dead, and I resent that very much.

Mr. Speaker, I rise to urge my colleagues to oppose the motion that would send to the President an abortion ban that does not have an exception for the life or health of the woman.

When the House first voted on this bill, we fought hard, but unsuccessfully, for an opportunity to debate and vote on an amendment that would provide an exception to the ban in cases where the woman's life or health is at risk. Since the original House vote on this bill, two noteworthy events have occurred.

First, an Ohio court has issued a 100-page opinion setting forth, with great detail and care, the unconstitutionality of a similar provision passed by the Ohio legislature. Central to the court's analysis is the fact that under Roe versus Wade and later cases, the government cannot ban abortions that are necessary to preserve the life or health of the woman.

Second, on February 28, President Clinton sent a letter to the chairman of the Judiciary Committee clearly stating that he will veto the legislation unless it contains a true exception for the life and health of the woman, as required by Roe versus Wade.

Because H.R. 1833, both in its original form and as amended by the Senate, fail to include any exception for the health of the woman, and because the life exception is too narrowly framed to constitute a true life exception, the bill before us today is unconstitutional. It clearly violates Roe versus Wade, and most importantly, it sends an unacceptable message to American women that their lives and health are not worthy of full protection.

In the course of our committee's hearings on this bill, we heard heart-rending stories from four women whose families benefited from the procedure this bill would ban, all in cases where terrible tragedies occurred late in the woman's pregnancy. As I listened to these women's stories, it became obvious to me that, in many respects, this bill is not about abortion at all. These pregnancies were wanted pregnancies, and the women told us that their families loved and cherished the babies that God was giving to them, no matter what disabilities those babies might have.

Unfortunately, these families had to confront the terrible tragedy that life was not to be for these babies, and they had to make decisions about how to manage the medical crises that confronted them in the way that best safeguarded the woman's life, health, and her ability to have another chance at motherhood. They chose this procedure based on advice from multiple medical specialists, knowing that

it posed the least risk to them and their future fertility. Some of these women told us that they were pro-life before they had this procedure, and they remain pro-life today. But they oppose this bill because it bans a medical procedure that preserved their health and their future fertility. Several of these women are pregnant again today, thanks to this procedure that safeguarded their reproductive capacity.

So, in truth, the bill before us today is as much about safe motherhood as it is about abortion. In 1920, 800 women died for every 100,000 live births. In 1990, 10 women died for every 100,000 births. While the maternal mortality ratio in the United States has decreased dramatically, pregnancy-related complications and deaths remain an important public health concern.

We cannot get complacent about safe motherhood. And an adjunct of safe motherhood is that when something goes terribly wrong with a pregnancy, the woman, her family, and her doctor have every right to do everything possible to preserve her future reproductive capacity, so that she can have another chance at motherhood.

So many times when we say the words "life and health of the woman" people react as if it's some kind of tricky legal technicality. That women don't die anymore because of pregnancy or childbirth. As a woman who almost died after childbirth, let me assure you, it can happen. And the CDC statistics I am citing are a reminder that the life and the health of the woman can indeed be placed in jeopardy during pregnancies today. The leading causes of pregnancy-related death are hemorrhage, embolism, and hypertensive disorders. Combined, they account for over 70 percent of pregnancy-related deaths. That's why options that reduce the risk of excess bleeding, such as the procedure we are considering today, can in many cases save the life or health of the woman.

You would think that Congress would have the sense to leave the practice of medicine to doctors. You would think that Congress would respect the privacy of the families who confront these terrible tragedies, and their intelligence in deciding how best to manage the life and health risks these tragedies bring with them. Instead, this bill tells these families that Congress would put the doctors who preserved the woman's life, her health, and her future fertility in prison for 2 years.

Look Coreen Costello in the eye, and tell her that the second chance at safe motherhood that this procedure afforded her is something that Congress is taking away. Sit down with her children and explain to them that Congress would subordinate their mother's health to a political agenda, so that supporters of this bill can run sensational 30-second ads to advance their political ambitions.

If this committee were serious about passing a bill that would pass constitutional muster, we would be voting on amendments to cure the constitutional problems that are so carefully detailed in the Ohio court decision and the President's letter. The President's letter makes it clear that he would quickly sign a bill that contained an exception for procedures necessary for the life of the woman or to avert serious adverse health consequences to the woman.

Without altering the bill to cure the vagueness problem, the undue burden on previability abortions, and to add a true life or health exception, everyone in this Chamber knows that this bill would be enjoined immediately by the courts. That being the case, what can the purpose be in forcing this bill to the President's desk without a life or health exception? I am afraid I cannot see one other than political gamesmanship, and it is distressing in the extreme to see that game being played at the expense of the lives and health of very real women in this country, women like Coreen Costello and Mary-Dorothy Line.

Don't play a political game with the lives and health of the women of this country. Don't vote to send this bill to the President without a health exception and without a true life exception.

Mr. Speaker, I include for the RECORD the following:

THE ISSUE IS NOT ABORTION

(By Mary-Dorothy Line)

My husband and I are extremely offended by the ad sponsored by the National Conference of Catholic Bishops that appeared in the March 26, 1996 edition of the Washington Post. A bill pending before the House (H.R. 1833) would ban intact dilation and evacuation (intact D&E) procedures used in some late-term abortions; late term abortions which are provided to protect the mother's life or health when there is no hope for the baby. This legislation is wrong, and it would hurt a lot of American families. We know. We are one of those families.

I am a registered Republican and we are practicing Catholics. Last April, we found out I was pregnant with our first child and were extremely happy. 19 weeks into my pregnancy, an ultrasound indicated that there was something wrong with our baby. The doctor noticed that his head was too large and contained excessive fluid. This problem is called hydrocephalus. Every person's head contains fluid to protect and cushion the brain, but if there is too much fluid, the brain cannot develop.

As practicing Catholics, when we have problems and worries, we turn to prayer. So, our whole family prayed. We were scared, but we are strong people and believe that God would not give us a problem if we couldn't handle it. This was our baby; everything would be fine. We never thought about abortion.

A few weeks later we had two more ultrasounds. We consulted with five specialists, who all told us the same thing. Our little baby had an advanced, textbook case of hydrocephaly. We asked what we could do. They all told us there was no hope and recommended that we terminate the pregnancy. We asked about in utero operations and shunts to remove the fluid, but were again told there was nothing we could do. We were devastated. I can't express the pain we still feel—this was our precious little baby, and he was being taken from us before we even had him.

My doctors, some of the best in the country, recommended the intact D&E procedure. No scissors were used and no one sucked out our baby's brain as is depicted in the inflammatory ads supporting H.R. 1833. A simple needle was used to remove the fluid—the same fluid that killed our son—to allow his head to pass through the birth canal undamaged. This was not our choice—this was God's will.

My doctor knew that we would want to have children in the future, even though it was the furthest thing from my mind at the time. They recommended the best procedure for me and our baby. Because the trauma to my body was minimized by this procedure, I was able to become pregnant again. We are expecting another baby in September.

I pray every day that this will never happen to anyone again, but it will, and those of us unfortunate enough to have to live this nightmare need a procedure which will give us hope for the future.

Congress needs to hear the truth. The truth does make a difference—when people listen. Last week, I testified at a hearing held in the Maryland legislature. A committee there was considering a bill similar to the one Congress in prepared to pass this week. In Maryland, they listened. And in Maryland, several conservative legislators joined in the 15–6 committee vote to reject this bill.

After seeing the callous way our tragedies are regarded by the proponents of H.R. 1833, I know the only hope to protect families lies with the President of the United States. I am told he is a good man. I am told he listens to people. I hope he listens to us, to the truth, and not to the political propaganda. I pray he shows love and compassion for women like me and families like mine. I pray he vetoes this bill.

Many people do not understand the real issue—it is women's health; not abortion and certainly not choice. We must leave decisions about the type of medical procedure to employ with the experts in the medical community and with the families they affect. It is not the place for government.

Mr. CANADY of Florida. Mr. Speaker, I yield 3½ minutes to the gentlewoman from California [Mrs. SEASTRAND].

Mrs. SEASTRAND. Mr. Speaker, I thank the gentleman from Florida for yielding time to me.

Mr. Speaker, I rise this evening in support of the amended version of H.R. 1833. The practice of partial-birth abortions should spark outrage in all of us. We, of this Congress, have a duty, a duty to protect children who might otherwise fall victim to this procedure. I believe we also have a duty to protect women from the scandalous falsehoods perpetrated by the opponents of this bill.

Those desperate to obscure the true nature of partial-birth abortions claim that the anesthesia given to the mother prior to the procedure results in the death of the child in utero. Based upon this myth they argue that it is misleading to call the procedure a partial-birth abortion, and any concerns that the child experiences pain are misplaced. Extreme abortion advocates have trumpeted this mistaken notion with the complicity of the unquestioning media.

Mr. Speaker, I rely upon the authority of Dr. Norig Ellison, president of the American Society of Anesthesiologists, who says this claim has "absolutely no basis in scientific fact."

Dr. David Birnbach, the president-elect of the Society for Obstetric Anesthesia and Perinatology, says it is crazy. The American Medical News reported in a January 1 article that

"Medical experts contend the claim is scientifically unsound and irresponsible, unnecessarily worrying pregnant women who need anesthesia."

During the House and Senate debates over this measure, we heard several of the opponents piously express concern for the health of women. Yet, they willingly propagate the mistaken rhetoric of the extreme pro-abortionists, and undoubtedly frighten pregnant women in need of anesthesia for other medical reasons.

In Dr. Ellison's words:

> I am deeply concerned that the widespread publicity may cause pregnant women to delay necessary and perhaps life-saving medical procedures totally unrelated to the birthing process, due to misinformation regarding the effects of anesthetics on the fetus.

Mr. Speaker, the Senate amendments to the bill clearly make an exception should the life of the mother depend on the employment of this procedure. I am satisfied that no woman will be harmed as a result of this legislation, and many children will be spared a particularly gruesome fate. To oppose this bill is to display the extremism in the defense of abortion rights that is beyond reason and without compassion.

In the immortal words of Abraham Lincoln:

> Fellow Citizens, we cannot escape history . . . The fiery trial through which we will pass will light us down, in honor or dishonor, to the latest generation.

Let it be recorded by history that this Congress took a stand, not only against cruel medical practice, but for the life and death of women.

□ 1900

Mrs. SCHROEDER. Mr. Speaker, I yield 2 minutes to the gentlewoman from New York [Mrs. LOWEY], the distinguished cochair of the Caucus on Women's Issues.

Mrs. LOWEY. Mr. Speaker, I rise in opposition to H.R. 1833.

Mr. Speaker, we are here today debating this extreme bill because the Republican leadership is absolutely committed to eliminating the right to choose. The pro-life majority in this House has restricted abortion rights throughout the last year—and this bill is yet another step on the road to the back alley. This legislation will criminalize abortion, harass doctors, and prevent women from getting the medical care they need.

Families facing a late-term abortion are families that want to have a child. These couples have chosen to become parents, and only face terminating the pregnancy due to tragic circumstances. Terminating a wanted pregnancy at this stage is agonizing and deeply personal.

This procedure is not about choice, It is about necessity.

Let me tell you about Claudia Ades, who lives in Sanata Monica, CA. She heard about this bill, and called to ask me if there was anything she could do to defeat it. As Claudia said so passionately, "This procedure saved my life and my family."

Three years ago, Claudia was pregnant and happier than she had ever been. However, 6 months into her pregnancy she discovered that the child she was carrying had severe fetal anomalies that made its survival impossible, and placed Claudia's own life at risk.

After speaking to a number of doctors, Claudia and her husband finally concluded that there was no way to save the pregnancy. "This was a desperately wanted pregnancy," Claudia said, "But my child was not meant to be in this world."

Those of us with healthy children can only imagine the horror that Claudia felt when she received the news about her condition. It is the news that all mothers pray every day they will never hear.

But, in those tragic cases where families do hear this horrible news, who should decide? The one thing that I know for sure is that the decision should not be made by Congress. At that horrible, tragic moment, the Government has no place.

Now, the Republican leadership could have made this a better bill by including real life and health exceptions. Not the sham life exception that's included in this bill—written by the Republican presidential candidate from Kansas who never met an abortion restriction that he didn't support. President Clinton even indicated that he would sign the bill if it contained real exceptions. But the Republican leadership doesn't want the President to sign this bill—they want him to veto it. This entire debate is a pay-off to the Christian Coalition and an exercise in election year political theatre.

Mr. Speaker, President Clinton's veto pen is the only thing protecting American women from the back alley. H.R. 1833 is an extreme bill that will put the lives of American women at risk. I urge its defeat.

Mr. CANADY of Florida. Mr. Speaker, I yield 2 minutes to the gentleman from Virginia [Mr. GOODLATTE], a member of the Committee on the Judiciary.

Mr. GOODLATTE. Mr. Speaker, I thank the chairman for his fine work.

Mr. Speaker, today I rise in support of an eminently reasonable bill to ban a heinous procedure to partially deliver fully formed babies, and then kill them. Again, I repeat, this is a very reasonable bill which the majority of Americans wholeheartedly support. Those who oppose this bill are the excessive ones.

Already, 288 of the Members of this House have voted to ban partial birth abortions. The bill before us today is identical except for three minor changes—all of which I support:

It still allows an exception to the ban in order to save the life of the mother, and now provides in those cases that the prosecution must prove that there was no other alternative available to save the mother's life, rather than placing the burden on the physician.

It clarifies that only the physician who performs the abortion may incur civil liability under the bill.

It allows fathers to sue a physician for damages only if the father and mother of the child were married when the abortion was performed.

We must put an end to this barbaric procedure where the difference between abortion and murder is literally a few inches. This is effective legislation to ban an unbelievably gruesome act. I urge my colleagues to support it.

Mrs. SCHROEDER. Mr. Speaker, I yield 2 minutes to the gentleman from Massachusetts [Mr. FRANK], the ranking member of the subcommittee.

Mr. FRANK of Massachusetts. Mr. Speaker, I salute the courage of the gentlewoman from Colorado [Mrs. SCHROEDER] and her willingness to take this issue on.

Mr. Speaker, we are clearly here dealing with a political issue. We heard one of the previous speakers say the purpose of it is to give the President something to veto. The President has said, amend this bill and he will sign it. Amend it to say that if the particular procedure is deemed necessary by a doctor to avoid serious adverse health consequences, he can do it.

Understand that this bill would say to a doctor, if in his judgment performing the abortion in this way is necessary to prevent severe physical damage to the mother, as long it is not life-threatening, he cannot do it. He can do it if it will save her life, but if it will destroy forever her chances of having a child, if it will cause her serious, long-lasting physical pain and disability, this bill says it is a crime to do it.

Mrs. SCHROEDER. Mr. Speaker, will the gentleman yield?

Mr. FRANK of Massachusetts. I yield to the gentlewoman from Colorado.

Mrs. SCHROEDER. Mr. Speaker, I think the gentleman is absolutely correct. They are saying that there is a life exception, but it is very cosmetic because the way I read the bill, it is that the doctor would have to prove there was no other medical procedure that would suffice, and maybe there is another medical procedure but it would not be as good for her outcome.

Mr. FRANK of Massachusetts. Mr. Speaker, reclaiming my time, and of course that is only life. It does not deal with health. The majority refused to allow an amendment. Be very clear about it. We have twice asked them let us vote, as the Senate did, and the amendment in the Senate got 46 votes and lost narrowly.

Members have said, "Your health exception is too broad." My colleagues on the other side of the aisle can narrow it if they want to. But they cannot, however, object that we have one that is

too broad when they have none at all; when they are asking the House to vote for a bill that will make it a crime for a doctor to perform this procedure even if he believes that performing it is necessary to prevent serious physical, long-lasting, permanent damage to the mother. That is not a reason for going forward under this outrageous bill.

Mrs. SCHROEDER. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from New York [Mr. SCHUMER].

Mr. SCHUMER. Mr. Speaker, I salute the gentlewoman from Colorado for her leadership, and I want to reiterate some of the points that have been made before.

Mr. Speaker, it all boils down to this: A doctor is in an operating room, an obstetrician-gynecologist. There is a serious problem that evolves and the doctor has to make a judgment. Does it make any sense for this body, or for any body, to impose the threat of a crime, a criminal penalty and a jail sentence, on that doctor while he or she is making the decision about what is best for health or for life?

Then let us say that we even go with the narrow amendment of life. What is the doctor going to do? Is a doctor not supposed to worry that maybe his or her judgment is different than what a jury might determine 2 years later, not under the glare of the operating room lights?

This amendment is regrettable. It is unfortunate. I have some sympathy with those that disagree with my view on the issue of choice, about the idea that it should not be easy and it should not be a quick decision, and abortion should not be a method of birth control. We are not talking about that here because in these cases the mother, the parents, wanted to have the baby but something happened and an emergency may occur. We, again without a bit of knowledge of what is actually the best medical procedure, are imposing something here, and that is simply wrong.

I would say to my colleagues, resist this amendment. It is not going to be an issue in political campaigns, believe me. It is too arcane and too gruesome. Do the right thing. Rise to the occasion and vote down this awful amendment.

Mr. CANADY of Florida. Mr. Speaker, I yield 2 minutes to the gentleman from Indiana [Mr. ROEMER].

Mr. ROEMER. Mr. Speaker, we hear now today from some of our colleagues that this is an issue of privacy and the U.S. Congress should not vote on it. We vote on issues of speech, and that is very private. We vote on issues of prayer, and that is very private. We vote on issues of guns, and that is everywhere private. Certainly we should vote to ban this kind of procedure that takes the life of a partially delivered baby.

I hear some of my colleagues on this side of the aisle even say that this is a regrettable procedure, an unfortunate procedure. This is a gruesome and brutal procedure, and as we spend billions of dollars every single year on medicine and technology, certainly there is no room in our society for this kind of procedure to continue to take place in 1996, no matter what your view is as a pro-life or a pro-choice Member of Congress.

What are we voting on? A partial birth abortion is defined as a procedure in which a doctor partially delivers a living fetus before killing the fetus and completing the delivery. That is what we are voting on.

What have we added to this in chapter 74, section 1531? "This paragraph shall not apply to a partial-birth abortion that is necessary to save the life of the mother whose life is endangered by a physical disorder, illness or injury."

Finally, let me conclude by saying this issue should not divide pro-choice and pro-life. It should not divide women and men. It should not divide Democrats and Republicans. It is a brutal and inhumane procedure that should be banned, and I urge my colleagues to support this bill.

Mrs. SCHROEDER. Mr. Speaker, I yield 2 minutes to the gentlewoman from California [Mrs. LOFGREN], a distinguished Member of the Committee on the Judiciary.

Ms. LOFGREN. Mr. Speaker, politicians in Congress have issues. We have wedge issues, we have issues we put in direct mail and we have rhetoric. I have heard a lot of partial discussions, selected comments that are meant to inflame, meant to persuade, and I think in some cases meant to mislead. But the people who will be hurt by this bill do not have issues. They have tragedies, and they do not need this bill to pass.

Mr. Speaker, I want to talk about people I really know, my friend Suzie Wilson's son and daughter-in-law, Bill and Vicki Wilson, and their wonderful children, Jon and Kaitlyn, because 2 years ago this April 8th they lost Abigail.

They were very much looking forward to Abigail. They had had two baby showers. The nursery was full of pink ribbons waiting for Abigail, and in the eighth month they found out that all of Abigail's brains had formed outside of her cranium and that there was no way that this child could survive. It was a tragedy.

They took their case to the doctor, who was able to save Vicki's life and to save her fertility. The question that faced them was not whether Abigail could live, but how would Abigail die and whether Vicki's uterus would burst while Abigail was dying.

I am glad that Vicki and Bill had the chance they did to keep their family intact. I know because we had a lot of tears, we friends of the family. They did not need the Congress of the United States to help them at that moment. They needed a doctor. They needed the love of their friends and their family. They needed the guidance of God.

Mr. Speaker, I have talked to Members in this body who have told me privately that if it were their wife, they would want this procedure, and then gone ahead and voted for this bill. I would ask all of you, do your politics with some other issues. Hurt someone else. Search your conscience and look at my friends, the Wilson family. Think of them and put politics aside.

Mrs. SCHROEDER. Mr. Speaker, I yield 2 minutes to the distinguished gentlewoman from Georgia [Ms. MCKINNEY].

Ms. MCKINNEY. Mr. Speaker, on Friday this House voted to repeal the assault weapons ban as a payoff to the NRA. Today we are voting to ban a rare but sometimes medically necessary procedure as a payoff to certain right-wing elements within the Republican party.

Mr. Speaker, we need to be honest with each other. Anti-choice forces see this ban as the first step toward ending a woman's right to choose in America. As far as the anti-choice forces are concerned, there is no difference between the procedure we are debating today and abortions in the cases of rape and incest.

□ 1915

Yet these same radicals believe that properly manipulated, this late-term procedure can be the wedge issue to divide the overwhelmingly pro-choice American public. Today, it is this procedure. Tomorrow, it is family planning.

Mr. Speaker, no one in this body likes this procedure. And, yes, it is unpleasant. But this rarely used medical procedure remains necessary to ensure that women who must have an abortion are still able to bear children afterwards.

Mr. CANADY of Florida. Mr. Speaker, I yield 2 minutes to the gentlewoman from Idaho [Mrs. CHENOWETH].

Mrs. CHENOWETH. Mr. Speaker, I rise today in absolute support of H.R. 1833.

As I walked to the floor this evening, it struck me how ridiculous and sad it is that in this great Chamber in this great Nation, we should even be debating this issue.

What we are talking about today is not the issue of abortion per se.

That is a discussion for another time, and that time will come.

What we are talking about is a procedure that is positively medieval.

The issue of abortion is very emotional and I try to avoid using inflammatory rhetoric on the issue, because I have felt it didn't further the debate.

But in this case murder is not too strong a term.

Partial birth abortion is murder, cold, grisly, and premeditated.

Partial birth is used on babies who are up to 9 months in the womb.

The ninth and final month.

At 9 months, what is the difference between a baby in the womb or a baby in the crib? One is just as helpless as the other.

And yet this procedure exists and is used at will.

We have seen statements from abortionists that not only have they frequently performed this procedure, but they have often performed it in purely elective circumstances.

Can anyone argue that this chilling act is medically necessary?

The American Medical Association's Council on Legislation voted unanimously to recommend that the AMA board of trustees endorse H.R. 1833.

Many council members agreed that, "the procedure is basically repulsive."

To condone the practice of partial birth abortion is to discard and disgrace every shred of morality that we as human beings should embrace.

Mr. Speaker, I strongly urge my colleagues to take a stand against this evil procedure known as partial birth abortion and vote for H.R. 1833.

Mrs. SCHROEDER. Mr. Speaker, I yield 2 minutes to the distinguished gentlewoman from Kansas [Mrs. MEYERS].

Mrs. MEYERS of Kansas. Mr. Speaker, we know that after the 24th week, only .01 percent of all abortions are performed, .01 percent. There are two or three procedures that are used, meaning that this particular procedure is used in only a portion of that .01 percent. Of these procedures, all are more terrifying and unpleasant than this one. But if a woman is carrying a fetus which has a severe abnormality or if the woman has a severe health condition which threatens her health if she continues to carry the fetus, one of these procedures must be used. The bill itself states that there are circumstances in which no other procedure will suffice.

The Senate amendments improved the bill only marginally, and I must still vote "no" because, one, I believe strongly that we should not remove a medical option that might preserve the health of a woman or preserve the ability of a woman to have future children. Second, I believe strongly that we should not decide medical procedures on the floor of this House and am deeply concerned about where this might lead. And, third, I believe strongly that we should not criminalize a medical procedure. For these three reasons, I must vote "no."

Mrs. SCHROEDER. Mr. Speaker, I yield 2 minutes to the gentlewoman from California [Ms. WOOLSEY].

Ms. WOOLSEY. Mr. Speaker, I rise in opposition to H.R. 1833 and criminalizing late-term abortions.

First of all, this conference report is a cruel, a very cruel attempt to make a political point. Make no mistake about it, ladies and gentleman, this conference report, with all of the emotional rhetoric and the exaggerated testimony, is a frontal attack on Roe versus Wade by the Gingrich majority, plain and simple. With the Gingrich majority, what they want is to do away with Roe. The radical rights wants to do away with Roe, and H.R. 183 is a good first step as far as they are concerned. So let us be honest about what this debate is really about.

This legislation seeks to prohibit the wide array of medical techniques which are rarely used but are sometimes required in the late stages of pregnancy, like with the Wilson family, in extreme and tragic cases when the life of the mother is in danger, or the fetus is so malformed that it has absolutely no chance of survival; for example, when the fetus has no brain, or the fetus is missing organs or the fetus's spine has grown outside of its body, when the fetus has zero chance of life, when women are forced to carry these malformed fetuses to term, they are in danger of chronic hemorrhaging, permanent infertility, or death.

Woman and their doctors need to make these decisions, not the Congress. Like the Wilsons, the family needs to make this decision with their doctors, not the Congress.

I urge my colleagues to oppose the conference report on H.R. 1833.

Mr. CANADY of Florida. Mr. Speaker, I yield 2 minutes to the gentleman from New Jersey [Mr. SMITH].

Mr. SMITH of New Jersey. Mr. Speaker, children, however dependent, are not property and no child is ever a throw-away. A pregnancy is not a disease. Yet partial-birth abortions treat a partially delivered child as a tumor, as a wart, as a disease to be destroyed.

Even if you have a doubt, I say to my colleagues concerning the humanity of an unborn child, can you not resolve that doubt in the baby's favor when the infant is half delivered?

Mr. Speaker, for the first time ever, Democrats and Republicans will send to the President a bill that says "no" to the horrific procedure that literally sucks the brains out of a baby's head. This poster to my left is not some kind of fiction. It is the reality of this horrendous child abuse.

A registered nurse, Brenda Pratt Shafer, said after seeing some of these partial-birth abortions, and I quote, "The baby's body was moving, his little fingers were clasping together, he was kicking his feet. All the while, his little head was stuck inside." Dr. Haskell took a pair of scissors and inserted them into the back of the baby's head. Then he opened up the scissors. Then he stuck a high-powered suction tube into the hole and sucked the baby's brains out.

Mr. Speaker, for the first time ever, despite the extraordinary ability of the pro-abortion lobby to obfuscate and confuse, the reality of abortion is finally getting the scrutiny it deserves. By addressing this particular kind of abortion, this legislation compels us to face the dark secret, the cold fact that an unborn baby dies in every abortion.

I am astonished that Members can support this kind of abortion. Two decades of cover up are over. I would say to colleagues that the brutal methods, whether it be chemical poisoning or suction, dismemberment of a baby, in this case a partially delivered baby killed with brain suction, this must be brought to the forefront so the people know exactly what is going on.

I hope the President says to the bill that he will sign it. I hope he signs it. It is not likely. He will have earned the legacy of being the abortion President. What a tragic, what a pathetic legacy to be the abortion President, especially a man who once in his past used to be pro-life.

Mrs. SCHROEDER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am sorry the gentleman would not yield. I wanted to point out it does say it was the Conference of Catholic Bishops that created that poster.

Mr. Speaker, I yield 2 minutes to the gentlewoman from Hawaii [Mrs. MINK].

Mrs. MINK of Hawaii. Mr. Speaker, it is really tragic, tragic that the personal problems and the anxieties of women who face these very, very difficult decisions that must be made with respect to their health and their safety and the integrity of their family and to have those tragic circumstances of a person's life be used under these circumstances to advance this political goal of trying to do away with abortion.

But I think that the debate clearly points out that what is being attempted here is a denunciation of the rights of women that have been created by the U.S. Supreme Court. That is what is at stake here.

It is not this procedure that is used so few times out of necessity, but it is the principle of interfering with the doctor and the women that require this procedure, taking away that right of a woman to make this difficult decision, taking away the right of a woman to consult with her physician about what needs to be done, allowing the Congress of the United States to make these decisions. I think that is the most reprehensible thing we could even think of.

We talk about getting big government off of the backs of people. Well, let us concentrate about what we are trying to do today. We are trying to take away the rights of reproductive freedom that the Supreme Court has established, which the courts have said

we must not interfere, and this is what is before us today, and that is why this Congress must oppose it. That is why this bill must never become law. It is trying to dictate to the doctors how to practice and criminalize their profession. I think it is outrageous.

Mrs. SCHROEDER. Mr. Speaker, I yield 1 minute to the gentlewoman from Texas [Ms. JACKSON-LEE], a distinguished member of the Committee on the Judiciary.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I thank the gentlewoman for yielding this time to me.

I am not a criminal, Mr. Speaker. And I am ashamed that what we are doing today may, in fact, makes innocent women, women who love children, criminals. Coreen Costello, Mary-Dorothy Lines, Claudia Ades, Viki Wilson, Tammy Watts, and Vikki Stella, all women who offered their most personal stories about wanting to conceive and to have a loving child and yet coming upon a physical and debilitating need to have a medical procedure.

Today we have legislation that will not cover all cases where a woman's life is in danger. The bill will not provide a health exception. H.R. 1833 creates obstacles to medical research, and tragically the life exception will not protect women. Criminals, we are making. Women, their families, their physicians. This is not the way to go.

In order to suggest that those of us who rise to support the rights of women do not have a love of a higher authority, how shameful. This is a bad bill. It does not help this country. It does not help women, and it certainly does not help the love we have for our children.

Mr. CANADY of Florida. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to respond to a point that was made a few moments ago about this bill criminalizing the activities of women and making criminals of women. That is simply not true.

I would suggest that before Members come to the floor to speak about the bill, they might want to read the bill. The bill says clearly a woman upon whom a partial-birth abortion is performed may not be prosecuted under this section.

Mr. Speaker, I reserve the balance of my time.

□ 1930

Mrs. SCHROEDER. Mr. Speaker, I yield 2 minutes to the distinguished gentlewoman from New York [Mrs. MALONEY].

Mrs. MALONEY. Mr. Speaker, I rise in opposition to H.R. 1833. In yet another attempt to roll back a woman's right to choose, to roll back Roe versus Wade, and make all abortions illegal, choice opponents are putting forward legislation which could endanger a woman's life and her ability to have children in the future.

How odd that the majority party would describe itself as family friendly. Plain and simple, the supporters of this bill feel it is more important to save a doomed fetus than the life of a mother and her ability to have children in the future.

Coreen Costello is the mother of two. The Dole amendment would not have allowed her to use this procedure. Coreen Costello said in front of the Senate in her testimony that she would have taken any child that God gave her, regardless of any handicap. But her child was a child that could not live. Fortunately for Coreen and her family, her doctor was able to save her life and her fertility. She is now expecting her next child.

But what about the women who come after Coreen? What will happen to them, their health, their lives, their families, if this life-saving procedure is outlawed? Congress has no place in their decisions and no place in their tragedies.

Mrs. SCHROEDER. Mr. Speaker, I yield 3 minutes to the gentlewoman from Connecticut [Mrs. JOHNSON].

Mrs. JOHNSON of Connecticut. Mr. Speaker, I thank the gentlewoman from Colorado for yielding me time.

If your daughter and son-in-law were faced with the extraordinary tragedy of discovering extreme fetal deformity late in pregnancy or a life threatening development with abortion being the only alternative, would you, would you, each individual Member of this body, want her to have available to her the procedure that was the least threatening to her life and the most protective of her future reproductive capability and the most respectful of the need for the parents to be and their living children to mourn their tragic loss?

Consider the experience of Coreen Costello. Mrs. Costello and her husband hold strong pro-life views, but were suddenly faced with the terrible and painful truth of the problems with her pregnancy. Specialists had determined that the baby had a lethal neurological disorder. Doctors at Cedars-Sinai told the Costellos that their daughter would not live, and due to the amniotic fluid pooling in Mrs. Costello's uterus, as well as the baby's position, there was a serious risk of a ruptured uterus. Natural birth or an induced labor were impossible. Coreen Costello then considered a caesarean section, but the doctors at her hospital were adamant that the risk to her health and life were simply too great.

She and her husband chose not to risk leaving their other children motherless by opting for a D&E procedure. Because of the safety of the procedure, Coreen is now pregnant again.

What right have we here in Congress on this floor to say to this family that you should have risked mom's life and ignored your doctor's advice? By what authority do we tell these women that we know more in each of their cases than their own physicians?

It is ironic that some of you here are advocating legislation that would assure that managed care plans guaranteed physicians the right to tell women all the medical possibilities for treatment, and yet you will legislate here tonight the denial to women of America who face terribly tragic, painful, personal circumstances of the right to have the medical procedure that in truth is safest for them and most protective of their reproductive capability, assures them to the maximum extent possible that they will have more children in their future.

Men of the House of Representatives, women who are Members of Congress, if it were your daughter, would you not want her life and reproductive hopes and dreams protected? Of course you would. Do not do this shortsighted, mean-spirited, terrible thing to women in our Nation.

Mr. CANADY of Florida. Mr. Speaker, I yield 1 minute to the gentlewoman from North Carolina [Mrs. MYRICK].

Mrs. MYRICK. Mr. Speaker, I honestly believe that a lot of the problems we have today in society stem from the fact that we have no regard for human life. You can call me old-fashioned, but I believe every individual born into this world is special, needed and important.

You know, our forefathers shared this philosophy when they wrote in our Declaration of Independence that we are endowed by our Creator with certain unalienable rights, that among these are life, liberty, and the pursuit of happiness.

I ask that we consider the difference. A doctor performs a painful, cruel, partial abortion one day, and it is accepted. And then the next day, if that same mother gave birth to the same age child and then she killed her child, she would be charged with murder. Only a few hours separates these two acts, but one is considered justified and accepted, even promoted, and the other is considered unjust. There is something wrong with our society today if we continue to justify such an unjust procedure.

Mrs. SCHROEDER. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Vermont [Mr. SANDERS].

Mr. SANDERS. Mr. Speaker, I know that there are some Members of Congress who believe they know everything about everything, but maybe once in awhile Members of this body might want to show a little humility. We are discussing a procedure which, as I understand it, is used in .01 of 1 percent of abortions, a situation which occurs only under the most tragic circumstances.

Day after day we hear from our conservative friends about how the big,

bad Government should leave people alone and get off of the backs of people. I would urge our conservative friends to heed that advice on this occasion.

This is a tragic circumstance. Let the woman, let her family, let the physician make that decision, not the politicians in Congress.

Mr. CANADY of Florida. Mr. Speaker, I yield 1 minute to the gentleman from Missouri [Mr. VOLKMER].

Mr. VOLKMER. Mr. Speaker, I rise today in strong support of H.R. 1833, the Partial Birth Abortion Ban Act. Today's battle for the rights of the unborn differ from previous prolife and proabortion debates. Yes, this debate today will not stop all abortions. It will only stop one procedure, the partial birth abortion. It brings to light the fact that when a woman and her unborn child have this type of procedure, that only the woman leaves the operating room.

Mr. Speaker, I think we are all forgetting one thing: A third trimester baby has a very good chance of living, if it was allowed to be born without interference. I urge my colleagues who might otherwise not support a prolife piece of legislation to support this legislation, which simply and narrowly protects against partial birth abortions.

This debate is not about a woman's right to choose, because there are other options. This debate today is about putting an end to a procedure that kills a child just a few inches from full birth.

Mrs. SCHROEDER. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. BECERRA] a distinguished member of the Committee on the Judiciary and also the spouse of a distinguished physician.

Mr. BECERRA. Mr. Speaker, I thank the gentlewoman for yielding me time.

Mr. Speaker, I am confused. The debate I am hearing from that side has nothing to do with the medical procedure that it seems we are trying to ban. I continue to hear people talk about how we are conducting abortions on babies that otherwise would be able to survive; if the pregnancy were to go to term, we would have a living baby. When in fact, as my wife who happens to be a high-risk obstetrician-gynecologist who deals specifically with women who have difficult pregnancies, has said, this is not a procedure where you are talking about a fetus that will go to term and where you will have a healthy baby born. This is a procedure that is used when it is fairly clear that the baby has no chance to live, and to allow the pregnancy to go to term would jeopardize the health and perhaps the life of the woman. So it seems like the debate is not really on point.

Now, let me read something that came from the American College of Obstetricians and Gynecologists, those doctors that are asked to perform these types of procedures and to protect the women involved.

They state:

The college finds very disturbing any action by Congress that would supersede the medical judgment of trained physicians and that would criminalize medical procedures that may be necessary to save the life of a woman. Moreover, in defining what medical procedures doctors may or may not perform, the bill employs terminology that is not even recognized in the medical community, demonstrating why congressional opinion should never be substituted for professional medical judgment.

Mr. Speaker, I think that states it best. We have people here who are trying to impose their opinion on a medical profession where technical, highly sophisticated, highly trained individuals are being asked to perform lifesaving procedures.

It does not make sense. We should stay out of this. We should let a woman make that very difficult choice of what type of procedure she would need to preserve her health and her life, and perhaps have a chance to have a pregnancy that will be able to go to term.

Mr. Speaker, I would urge Members to seriously consider voting strongly against this particular bill, because it does not do what the proponents say.

Mrs. SCHROEDER. Mr. Speaker, I yield myself the balance of my time.

The SPEAKER pro tempore (Mr. ROGERS). The gentlewoman from Colorado is recognized for 2½ minutes.

Mrs. SCHROEDER. Mr. Speaker, as a woman, when I am with my doctor, I want that doctor focused on my health, and not on their criminal liability. What this bill does is it will focus any doctor on steering away from what they think might be best for the patient, because they could serve 2 years in prison or they could have a criminal record, or on and on and on.

Mr. Speaker, I think every citizen thinks that that is a zone of privacy. This Congress has never interfered in that zone of privacy between a family and their physician. Today, for the first time, if this bill becomes law, we will be moving to make an act criminal by a doctor. I much more trust my doctor than I do Members of this body, I am sorry to say, so I get very angry when I hear some of the things that have been said here.

I have heard people talk about "inhumane, brutal, gruesome, terrible." We have seen the drawings. The drawings were not done by the American College of Gynecologists and Obstetricians. They do not support this bill. They were done, as they say rightfully, by the Catholic Conference of Bishops. Now, they have the right to make their case here, but, please, again, I think most Americans trust their doctors to make those difficult decisions.

We have heard about pain, we have heard about everything. I sat through those hearings. The anesthesiologists who testified said that there is pain in everything. There is pain in birth. So if we are just going to outlaw anything that is painful, we are going to be a very busy Congress. What they were saying is what happened, some of the advocates were misstating anesthesiology procedures. That is possible, because people here are not doctors.

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But they were not supporting the bill. They were just trying to set the record straight. Bottom line, as the gentlewoman from Kansas said, these are in very tragic circumstances. Only .01 percent of all abortions would be affected by this. These are basically a handful of doctors, and thank goodness a handful of families. But I must say as one who has been there, one who almost lost her life, I would be terribly resentful of this happening, and I never thought it could happen to me, so I say to people, please, please, I know this is a difficult issue.

Anything you cannot explain, anything that is difficult to explain, people hesitate to vote against. But please be willing to make this explanation. It is much too important for America's families.

Mr. CANADY of Florida. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Nevada [Mrs. VUCANOVICH].

Mrs. VUCANOVICH. Mr. Speaker, I strongly urge my colleagues to support H.R. 1833 with the Senate amendments which would ban this brutal procedure know as partial-birth abortion.

Mr. Speaker, as many of you know, I have 15 grandchildren. Two of my grandchildren, the miracle twins as I call them, were born prematurely at 7 months. They were so tiny that they could fit in your hands but they were perfectly formed little human beings and they are now 14 years old.

It makes me shudder to think that somewhere, perhaps even today, in this country that there are other little preborn human beings 7 months old in their mothers womb that are going to be subject to this brutal, horrible procedure known as a partial birth abortion.

I am not the only one who finds this procedure horrifying. The American Medical Association's Legislative Council unanimously decided that this procedure was not "a recognized medical technique" and that "this procedure is basically repulsive." This is especially true when you realize that 80 percent of these types of abortion are done as a purely elective procedure. It is important to note that this bill does make exception for this type of abortion if it is necessary to save the life of the mother, however, this is an exception that will have to be used rarely.

I think we can all agree that it is inhuman to begin the birthing process and nearly complete the delivery of the baby, only to suck the life out of the child.

I strongly urge my colleagues to support H.R. 1833, with the Senate amendments, which would ban this brutal procedure known as partial birth abortion.

Mr. CANADY of Florida. Mr. Speaker, I yield the balance of my time to the gentleman from Illinois [Mr. HYDE], chairman of the Committee on the Judiciary.

The SPEAKER pro tempore (Mr. ROGERS). The gentleman from Illinois is recognized for 5 minutes.

Mr. HYDE. Mr. Speaker, I listened with great intensity to the debate this evening. It is an important debate. I heard the gentleman from Vermont talk about humility, and he is absolutely right. You do not deal with people's lives in a sense of arrogance at all. But at the same time, if you believe you are right, if you are convinced that you possess the truth and you remain silent, you become the accomplice of liars and forgers. I just ascribe the failure to consider the unborn, and I listened to all of the impassioned remarks of my friends on the other side, they never talk about the unborn. It is the woman, it is her family, it is her doctor, but the little tiny infant in the shadows, the absent person, the invisible person is the unborn, and that is a failure of imagination. That is a compassion deficit.

Mr. Speaker, I guess you have to be healthy to be born. I guess our Declaration of Independence, when it talked about the right to life being inalienable should have said if you are healthy, if you are healthy. God help you if you are handicapped before you are born. But if you make it through the birth canal, we will give you a preferred parking place. That is the way we deal with those situations. No, the partial birth abortion, which is just what it is. It is not an exercise of reproductive rights, and it is not a fetus. It is an abortion. It is not a termination of a pregnancy. It is an extermination of a defenseless little life whose little arms and little legs are wiggling until that scissors gets shoved in his neck and then they stiffen. We heard that testimony. Some of you heard that testimony. There is a coursening of our national conscience when you tolerate this form of torture.

Catholic bishops. Thank God somebody cares about this grotesquery. Thank God, I do not think that invalidates those charts. A political goal? If defending human dignity is political, then I plead guilty. But somebody has to speak up for that little defenseless child almost born, three-quarters born, just the little head left, and they brutally kill that little child, and you do it in the name of compassion. I am sorry, I think that is a coursening, a desensitizing of our conscience.

This bill outlaws a uniquely barbaric method of abortion. Even to describe it is painful, but it is not as painful as the pain that little unborn child feels. If steel traps are too brutal for wild animals, what is too brutal for a tiny member of the human family, an almost-born infant? Have you heard of PETA, People for the Ethical Treatment of Animals? We need a PETA for humans, people for the ethical treatment of tiny, defenseless, cannot rise up in the streets, cannot vote, cannot escape members of the human family. You would not treat a coyote like you treat this little almost-born baby.

Members keep insisting the Government should not intervene. Well, I know some Members are for Government intervention in everything but abortion. I understand that. But who will speak for the baby if the Government does not? What is the purpose of law to protect the weak from the strong? What is weaker than a little child almost born and you destroy that child in a barbaric way? No, I am glad the Government is there. I am not that libertarian that I do not think that Government should not protect the weak from the strong.

The only thing Members consider is the autonomy of the woman, the woman. Well, God bless the woman, and she needs help and care and love and nurturing. But what about the little baby? Why do you leave that out of your equation, our of your calculus?

We had four anesthesiologists tell us those little babies feel pain. That is why they get anesthesia. One of the head of the anesthesiology department at Emory University says the pre-term baby feels pain more that when it is born. That validates the title "silent scream." What about the pain felt by the little baby? Not a word, not a word.

Is there anything, is there anything we say no to? Is everything permitted? God help us if that is true. Let us draw the line here. This should not be tolerated.

Mr. DICKEY. Mr. Speaker, I submit the following material for enclosure in the RECORD:

DILATION AND EXTRACTION FOR LATE SECOND TRIMESTER ABORTION—PRESENTED AT THE NATIONAL ABORTION FEDERATION RISK MANAGEMENT SEMINAR, SEPTEMBER 13, 1992

(By Martin Haskell, M.D.)

INTRODUCTION

The surgical method described in this paper differs from classic D&E in that it does not rely upon dismemberment to remove the fetus. Nor are inductions or infusions used to expel the intact fetus.

Rather, the surgeon grasps and removes a nearly intact fetus through an adequately dilated cervix. The author has coined the term Dilation and Extraction or D&X to distinguish it from dismemberment-type D&E's.

This procedure can be performed in a properly equipped physician's office under local anesthesia. It can be used successfully in patients 20–26 weeks in pregnancy.

The author has performed over 700 of these procedures with a low rate of complications.

BACKGROUND

D&E evolved as an alternative to induction or instillation methods for second trimester abortion in the mid 1970's. This happened in part because of lack of hospital facilities allowing second trimester abortions in some geographic areas, in part because surgeons needed a "right now" solution to complete suction abortions inadvertently started in the second trimester and in part to provide a means of early second trimester abortion to avoid necessary delays for instillation methods.[1] The North Carolina Conference in 1978 established D&E as the preferred method for early second trimester abortions in the U.S.[2,3,4]

Classic D&E is accomplished by dismembering the fetus inside the uterus with instruments and removing the pieces through an adequately dilated cervix.[5]

However, most surgeons find dismemberment at twenty weeks and beyond to be difficult due to the toughness of fetal tissues at this stage of development. Consequently, most late second trimester abortions are performed by an induction method.[6,7,8]

Two techniques of late second trimester D&E's have been described at previous NAF meetings. The first relies on sterile urea intra-amniotic infusion to cause fetal demise and lysis (or softening) of fetal tissues prior to surgery.[9]

The second technique is to rupture the membranes 24 hours prior to surgery and cut the umbilical cord. Fetal death and ensuing autolysis soften the tissues. There are attendant risks of infection with this method.

In summary, approaches to late second trimester D&E's rely upon some means to induce early fetal demise to soften the fetal tissues making dismemberment easier.

PATIENT SELECTION

The author routinely performs this procedure on all patients 20 through 24 weeks LMP with certain exceptions. The author performs the procedure on selected patients 25 through 26 weeks LMP.

The author refers for induction patients falling into the following categories: previous C-section over 22 weeks; obese patients (more than 20 pounds over large frame ideal weight); twin pregnancy over 21 weeks; patients 26 weeks and over.

DESCRIPTION OF DILATION AND EXTRACTION METHOD

Dilation and extraction takes over three days. In a nutshell, D&X can be described as follows: dilation; more dilation; real-time ultrasound visualization; version (as needed); intact extraction; fetal skull decompression; removal; clean-up; recovery.

Day 1—Dilation

The patient is evaluated with an ultrasound, hemoglobin and Rh. Hadlock scales are used to interpret all ultrasound measurements.

In the operating room, the cervix is prepped, anesthetized and dilated to 9–11 mm. Five, six or seven large Dilapan hydroscopic dilators are placed in the cervix. The patient goes home or to a motel overnight.

Day 2—Dilation

The patient returns to the operating room where the previous day's Dilapan are removed. The cervix is scrubbed and anesthetized. Between 15 and 25 Dilapan are placed in the cervical canal. The patient returns home or to a motel overnight.

Day 3—The Operation

The patient returns to the operating room where the previous day's Dilapan are removed. The surgical assistant administers 10 IU Pitocin intramuscularly. The cervix is scrubbed, anesthetized and grasped with a tenaculum. The membranes are ruptured, if they are not already.

The surgical assistant places an ultrasound probe on the patient's abdomen and scans

Footnotes at end of article.

the fetus, locating the lower extremities. This scan provides the surgeon information about the orientation of the fetus and approximate location of the lower extremities. The transducer is then held in position over the lower extremities.

The surgeon introduces a large grasping forcep, such as a Bierer or Hern, through the vaginal and cervical canals into the corpus of the uterus. Based upon his knowledge of fetal orientation, he moves the tip of the instrument carefully towards the fetal lower extremities. When the instrument appears on the sonogram screen, the surgeon is able to open and close its jaws to firmly and reliably grasp a lower extremity. The surgeon then applies firm traction to the instrument causing a version of the fetus (if necessary) and pulls the extremity into the vagina.

By observing the movement of the lower extremity and version of the fetus on the ultrasound screen, the surgeon is assured that his instrument has not inappropriately grasped a maternal structure.

With a lower extremity in the vagina, the surgeon uses his fingers to deliver the opposite lower extremity, then the torso, the shoulders and the upper extremities.

The skull lodges at the internal cervical os. Usually there is not enough dilation for it to pass through. The fetus is oriented dorsum or spine up.

At this point, the right-handed surgeon slides the fingers of the left had along the back of the fetus and "hooks" the shoulders of the fetus with the index and ring fingers (palm down). Next he slides the tip of the middle finger along the spine towards the skull while applying traction to the shoulders and lower extremities. The middle finger lifts and pushes the anterior cervical lip out of the way.

While maintaining this tension, lifting the cervix and applying traction to the shoulders with the fingers of the left hand, the surgeon takes a pair of blunt curved Metzenbaum scissors in the right hand. He carefully advances the tip, curved down, along the spine and under his middle finger until he feels it contact the base of the skull under the tip of his middle finger.

Reassessing proper placement of the closed scissors tip and safe elevation of the cervix, the surgeon then forces the scissors into the base of the skull or into the foramen magnum. Having safely entered the skull, he spreads the scissors to enlarge the opening.

The surgeon removes the scissors and introduces a suction catheter into this hole and evacuates the skull contents. With the catheter still in place, he applies traction to the fetus, removing it completely from the patient.

The surgeon finally removes the placenta with forceps and scrapes the uterine walls with a large Evans and a 14 mm suction curette. The procedure ends.

Recovery

Patients are observed a minimum of 2 hours following surgery. A pad check and vital signs are performed every 30 minutes. Patients with minimal bleeding after 30 minutes are encouraged to walk about the building or outside between checks.

Intravenous fluids, pitocin and antibiotics are available for the exceptional times they are needed.

ANESTHESIA

Lidocaine 1% with epinephrine administered intra-cervically is the standard anesthesia. Nitrous-oxide/oxygen analgesic is administered nasally as an adjunct. For the Dilapan insert and Dilapan change, 12cc's is used in 3 equidistant locations around the cervix. For the surgery, 24cc's is used at 6 equidistant spots.

Carbocaine 1% is substituted for lidocaine for patients who expressed lidocaine sensitivity.

MEDICATIONS

All patients not allergic to tetracycline analogues receive doxycycline 200 mgm by mouth daily for 3 days beginning Day 1.

Patients with any history of gonorrhea, chlamydia or pelvic inflammatory disease receive additional doxycycline, 100 mgm by mouth twice daily for six additional days.

Patients allergic to tetracyclines are not given prophylactic antibiotics.

Ergotrate 0.2 mgm by mouth four times daily for three days is dispensed to each patient.

Pitocin 10 IU intramuscularly is administered upon removal of the Dilapan on Day 3.

Rhogam intramuscularly is provided to all Rh negative patients on Day 3.

Ibuprofen orally is provided liberally at a rate of 100 mgm per hour from Day 1 onward.

Patients with severe cramps with Dilapan dilation are provided Phenergan 25 mgm suppositories rectally every 4 hours as needed.

Rare patients require Synalogos DC in order to sleep during Dilapan dilation.

Patients with a hemoglobin less than 10 g/dl prior to surgery receive packed red blood cell transfusions.

FOLLOW-UP

All patients are given a 24 hour physician's number to call in case of a problem or concern.

At least three attempts to contact each patient by phone one week after surgery are made by the office staff.

All patients are asked to return for check-up three weeks following their surgery.

THIRD TRIMESTER

The author is aware of one other surgeon who uses a conceptually similar technique. He adds additional changes of Dilapan and/or lamineria in the 48 hour dilation period. Coupled with other refinements and a slower operating time, he performs these procedures up to 32 weeks or more.[10]

SUMMARY

In conclusion, Dilation and Extraction is an alternative method for achieving late second trimester abortions to 26 weeks. It can be used in the third trimester.

Among its advantages are that it is a quick, surgical outpatient method that can be performed on a scheduled basis under local anesthesia

Among its disadvantages are that it requires a high degree of surgical skill, and may not be appropriate for a few patients.

FOOTNOTES

[1]Cates, W. Jr., Schulz, K.F., Grimes D.A., et al: The Effects of Delay and Method of Choice on the Risk of Abortion Morbidity, Family Planning Perspectives, 9:266, 1977.

[2]Borell, U., Emberey, M.P., Bygdeman, M., et al: Midtrimester Abortion by Dilation and Evacuation (Letter), American Journal of Obstetrics and Gynecology, 131:232, 1978.

[3]Centers for Disease Control: Abortion Surveillance 1978, p. 30, November, 1980.

[4]Grimes, D.A., Cates, W. Jr. (Berger, G.S., et al, ed): Dilation and Evacuation, Second Trimester Abortion—Perspectives After a Decade of Experience, Boston, John Wright—PSG, 1981, p. 132.

[5]Ibid, p. 121–128.

[6]Ibid, p. 121.

[7]Kerenyi, T.D. (Bergen, G.S., et al, ed): Hypertonic Saline Instillation, Second Trimester Abortion—Perspectives After a Decade of Experience, Boston, John Wright—PSG, 1981, p. 79.

[8]Hanson, M.S. (Zatuchni, G. I., et al, ed): Midtrimester Abortion: Dilation and Extraction Preceded by Laminaria, Pregnancy Termination Procedures, Safety and New Developments, Hagerstown, Harper and Row, 1979, p. 192.

[9]Hern, W.M., Abortion Practice, Philadelphia, J.B. Lippincott, 1990, p. 127, 144–6.

Mr. TIAHRT. Mr. Speaker, I believe my colleagues will be interested in Dr. Birnbach's testimony related to partial birth abortions.

Mr. Chairman, members of the subcommittee, my name is David Birnbach, M.D., and I am presently the director of obstetric anesthesiology at St. Luke's-Roosevelt Hospital Center, a teaching hospital of Columbia University College of Physicians and Surgeons in New York City. I am also president-elect of the Society for Obstetric Anesthesia and Perinatology, the society which represents my subspecialty.

I am here today to take issue with the previous testimony before committees of the Congress that suggests that anesthesia causes fetal demise. I believe that I am qualified to address this issue because I am a practicing obstetric anesthesiologist. Since completing my anesthesiology and obstetric anesthesiology training at Harvard University, I have administered analgesia to more than 5,000 women in labor and anesthesia to over 1,000 women undergoing caesarean section. Although the majority of these cases were at full term gestation, I have provided anesthesia to approximately 200 patients who were carrying fetuses of less than 30 weeks gestation and who needed emergency nonobstetric surgery during pregnancy. These operations have included appendectomies, gall bladder surgeries, numerous orthopedic procedures such as fractured ankles, uterine and ovarian procedures, including malignant tumor removal, breast surgery, neurosurgery, and cardiac surgery.

The anesthetics which I have administered have included general, epidural, spinal, and local. The patients have included healthy as well as very sick pregnant patients. Although I often use spinal and epidural anesthesia in pregnant patients, I also administer general anesthesia to these patients and, on occasion, have needed to administer huge doses of general anesthesia in order to allow surgeons to perform cardiac surgery or neurosurgery.

In addition, I believe that I am also especially qualified to discuss the effect of maternally administered anesthesia on the fetus, because I am one of only a handful of anesthesiologists who has administered anesthesia to a pregnant patient undergoing in-utero fetal surgery, thus allowing me to watch the fetus as I administered general anesthesia to the mother. A review of the experiences that my associates and I had while administering general anesthesia to a mother while a surgeon operated on her unborn fetus was published in the Journal of Clinical Anesthesia vol. 1, 1989, pp. 363–367. In this paper, we suggested that general anesthesia provides several advantages to the fetus who will undergo surgery and then be replaced in the womb to continue to grow until mature enough to be delivered. Safe doses of anesthesia to the mother most certainly did not cause fetal demise when used for these operations.

Despite my extensive experience with providing anesthesia to the pregnant patient, I have never witnessed a case of fetal demise that could be attributed to an anesthetic. Although some drugs which we administer to the

mother may cross the placenta and affect the fetus, in my medical judgment fetal demise is definitely not a consequence of a properly administered anesthetic. In order to cause fetal demise it would be necessary to give the mother dangerous and life-threatening doses of anesthetics. This is not the way we practice anesthesiology in the United States.

Mr. Chairman, I am deeply concerned that the previous congressional testimony and the widespread publicity that has been given this issue will cause unnecessary fear and anxiety in pregnant patients and may cause some to unnecessarily delay emergency surgery. As an example, several newspapers across the United States have stated that anesthesia causes fetal demise. Because this issue has been allowed to become a "controversy" several of my patients have recently expressed concerns about anesthesia, having seen newspaper or heard radio or television coverage of this issue. Evidence that patients are still receiving misinformation regarding the fetal effects of maternally administered anesthesia can be seen by review of an article that a pregnant patient recently brought with her to the labor and delivery floor. In last month's edition of Marie Claire, a magazine which many of my pregnant patients read, an article about partial birth abortion states: "The mother is put under general anesthetic, which reaches the fetus through her bloodstream. By the time the cervix is sufficiently dilated, the fetus has overdosed on the anesthetic and is brain-dead." These incorrect statements continue to find their way into newspapers and magazines around the country. Despite the previous testimony of Dr. Ellison, I have yet to see an article that states, in no uncertain terms, that anesthesia when used property does not harm the fetus. This supposed controversy regarding the effects of anesthesia on the fetus must be finally and definitively put to rest.

In order to address this complex issue, I believe that it is necessary to comment on three of the statements which have recently been made to the Congress.

First, Dr. James McMahon, now deceased, testified that anesthesia causes neurologic fetal demise.

Second, Dr. Lewis Koplick supported Dr. McMahon and stated: "I am certain that anyone who would call Dr. McMahon a liar is speaking from ignorance of abortions in later pregnancy and of Dr. McMahon's technique and integrity."

Third, Dr. Mary Campbell of Planned Parenthood has addressed this issue by writing the following: "Though these doses are high, the incremental administration of the drugs minimizes the probability of negative outcomes for the mother. In the fetus these dosage levels may lead to fetal demise—death—in a fetus weakened by its own developmental anomalies."

My responses to these statements are as follows:

One, there is absolutely no scientific or clinical evidence that a properly administered maternal anesthetic causes fetal demise. To the contrary, there are hundreds of scientific articles which demonstrate the fetal safety of currently used anesthetics.

Two, Dr. Koplick has stated that the "massive" doses used by Dr. McMahon are responsible for fetal demise. This again, is incorrect and there is not scientific or clinical data to support this allegation. I have personally administered "massive" doses of narcotics to intubated critically ill pregnant patients who are being treated in an intensive care unit. I am pleased to say that the fetuses were born alive and did well.

Three, Dr. Campbell has described the narcotic protocol which Dr. McMahon had used during his D&X procedures: it includes the administration of Midazolam (10–40 mg) and Fetanyl (900–2,500 μg). Although there is no evidence that this dose will cause fetal demise, there is clear evidence that this excessive dose could cause maternal death. These doses are far in excess of any anesthetic that would be used by an anesthesiologist and even if they are incrementally given over a 2 to 3 hour period these doses would in all probability cause enough respiratory depression of the mother, to necessitate intubation and/or assisted respiration. Since Dr. McMahon cannot be questioned regarding his "heavy handed" anesthetic practice. I am unable to explain why we would willingly administer such huge amounts of drugs if he did indeed administer 2,500 μg of fentanyl and 40 mg of midazolam to a patient in a clinic, without an anesthesiologist present, he has definitely placing the mother's life at great risk.

In conclusion, I would like to say that I believe that I have a responsibility as a practicing obstetric anesthesiologist to refute any and all testimony that suggests that maternally administered anesthesia causes fetal demise. It is my opinion that in order to achieve that goal one would need to administer such huge doses of anesthetic to the mother as to place her life at jeopardy. Pregnant women must get the message that should they need anesthesia for surgery or analgesia for labor, they may do so without worrying about the effects on their unborn child.

Thank you for your attention. I am happy to respond to your questions.

Mr. VOLKMER. Mr. Speaker, I submit the following material for inclusion in the RECORD:

[From the American Medical News, Nov. 20, 1995]

OUTLAWING ABORTION METHOD: VETO-PROOF MAJORITY IN HOUSE VOTES TO PROHIBIT LATE-TERM PROCEDURE

(By Diane M. Gianelli)

Washington.—His strategy was simple: Find an abortion procedure that almost anyone would describe as "gruesome," and force the opposition to defend it.

When Rep. Charles T. Canady (R. Fla.) learned about "partial birth" abortions, he was set.

He and other anti-abortion lawmakers launched a congressional campaign to outlaw the procedure.

Following a contentious and emotional debate, the bill passed by an overwhelming—and veto-proof—margin: 288–139. It marks the first time the House of Representatives has voted to forbid a method of abortion. And although the November elections yielded a "pro-life" infusion in both the House and Senate, massive crossover voting occurred, with a significant number of "pro-choice" representatives voting to pass the measure.

The controversial procedure, done in second- and third-trimester pregnancies, involves an abortion in which the provider, according to the bill, "partially vaginally delivers a living fetus before killing the fetus and completing the delivery."

"Partial birth" abortions, also called "intact D&E" (for dilation and evacuation), or "D&X" (dilation and extraction) are done by only a handful of U.S. physicians, including Martin Haskell, MD, of Dayton Ohio, and, until his recent death, James T. McMahon, MD of the Los Angeles area. Dr. McMahon said in a 1993 AM/News interview that he had trained about a half-dozen physicians to do the procedure.

The procedure usually involves the extraction of an intact fetus, feet first, through the birth canal, with all but the head delivered. The surgeon forces scissors into the base of the skull, spreads them to enlarge the opening, and uses suction to remove the brain.

The procedure gained notoriety two years ago, when abortion opponents started running newspaper ads that described and illustrated the method. Their goal was to defeat an abortion rights bill then before Congress on grounds it was so extreme that states would have no ability to restrict even late-term abortions on viable fetuses. The bill went nowhere, but strong reaction to the campaign prompted anti-abortion activists to use it again.

They drafted a bill that would ban the procedure, after considering a number of other options. An Ohio law passed earlier this year, for instance, bans "brain suction" abortions, except when all other methods would pose a greater risk to the pregnant woman. It has been enjoined pending a challenge.

MIXED FEELINGS IN MEDICINE

The procedure is controversial in the medical community. On the one hand, organized medicine bristles at the notion of Congress attempting to ban or regulate any procedures or practices. On the other hand, even some in the abortion provider community find the procedure difficult to defend.

"I have very serious reservations about this procedure," said Colorado physician Warren Hern. MD. The author of "Abortion Practice," the nation's most widely used textbook on abortion standards and procedures. Dr. Hern specializes in late-term procedures.

He opposes the bill, he said, because he thinks Congress has no business dabbling in the practice of medicine and because he thinks this signifies just the beginning of a series of legislative attempts to chip away at abortion rights. But of the procedure in question he says. "You really can't defend it. I'm not going to tell somebody else that they should not do this procedure. But I'm not going to do it."

Dr. Hern's concerns center on claims that the procedure in late-term pregnancy can be safest for the pregnant women, and that without this procedure women would have died. "I would dispute any statement that this is the safest procedure to use," he said.

Turning the fetus to a breech position is "potentially dangerous," he added. "You have to be concerned about causing amniotic fluid embolism or placental abruption if you do that."

Pamela Smith, MD, director of medical education, Dept. of Ob-Gyn at Mt. Sinai Hospital in Chicago, added two more concerns: cervical incompetence in subsequent pregnancies caused by three days of forceful dilation of the cervix and uterine rupture caused by rotating the fetus within the womb.

"There are absolutely no obstetrical situations encountered in this country which require a partially delivered human fetus to be

destroyed to preserve the life of the mother." Dr. Smith wrote in letter to Canady.

The procedure also has its defenders. The procedure is a "well-recognize and safe technique by those who provide abortion care," Lewis H. Koplik, MD, an Albuquerque, N.M., abortion provider, said in a statement that appeared in the Congressional Record.

"The risk of severe cervical laceration and the possibility of damage to the uterine artery by a sharp fragment of calvarium is virtually eliminated. Without the release of thromboplastic material from the fetal central nervous system into the maternal circulation, the risk of coagulation problems, DIC [disseminated intravascular coagulation], does not occur. In skilled hands, uterine perforation is almost unknown," Dr. Koplik said.

Bruce Ferguson, MD, another Albuquerque abortion provider, said in a letter released to Congress that the ban could impact physicians performing late-term abortions by other techniques. He noted that there were "many abortions in which a portion of the fetus may pass into the vaginal canal and there is no clarification of what is meant by 'a living fetus.' Does the doctor have to do some kind of electrocardiogram and brain wave test to be able to prove their fetus was not living before he allows a foot or hand to pass through the cervix?"

Apart from medical and legal concerns, the bill's focus on late-term abortion also raises troubling ethical issues. In fact, the whole strategy, according to Rep. Chris Smith (R, N.J.), is to force citizens and elected officials to move beyond a philosophical discussion of "a woman's right to choose," and focus on the reality of abortion. And, he said, to expose those who support "abortion on demand" as "the real extremists."

Another point of contention is the reason the procedure is performed. During the Nov. 1 debate before the House, opponents of the bill repeatedly stated that the procedure was used only to save the life of the mother or when the fetus had serious anomalies.

Rep. Vic Fazio (D, Calif.) said, "Despite the other side's spin doctors—real doctors know that the late-term abortions this bill seeks to ban are rare and they're done only when there is no better alternative to save the woman, and, if possible, preserve her ability to have children."

Dr. Hern said he could not imagine a circumstance in which this procedure would be safest. He did acknowledge that some doctors use skull-decompression techniques, but he added that in those cases fetal death has been induced and the fetus would not purposely be rotated into a breech position.

Even some physicians who specialize in this procedure do not claim the majority are performed to save the life of the pregnant woman.

In his 1993 interview with AMNews, Dr. Haskell conceded that 80 percent of his late-term abortions were elective. Dr. McMahon said he would not do an elective abortion after 26 weeks. But in a chart he released to the House Judiciary Committee, "depression" was listed most often as the reason for late-term nonelective abortions with maternal indications. "Cleft lip" was listed nine times under fetal indications.

The accuracy of the article was challenged, two years after publication, by Dr. Haskell and the National Abortion Federation, who told Congress the doctors were quoted "out of context." AMNews Editor Barbara Bolsen defended the article, saying AMNews "had full documentation of the interviews, including tape recordings and transcripts."

Bolsen gave the committee a transcript of the contested quotes, including the following, in which Dr. Haskell was asked if the fetus was dead before the end of the procedure.

"No, it's not. No, it's really not. A percentage are for various numbers of reasons. Some just because of the stress—intrauterine stress during, you know, the two days that the cervix is being dilated. Sometimes the membranes rupture and it takes a very small superficial infection to kill a fetus in utero when the membranes are broken.

"So in my case, I would say probably about a third of those are definitely dead before I actually start to remove the fetus. And probably the other two-thirds are not," said Dr. Haskell.

In a letter to Congress before his death, Dr. McMahon stated that medications given to the mother induce "a medical coma" in the fetus, and "there is neurological fetal demise."

But Watson Bowes, MD, a maternal-fetus specialist at the University of North Carolina, Chapel Hill, said in a letter to Canady that Dr. McMahon's statement "suggests a lack of understanding of maternal-fetal pharmacology. * * * Having cared for pregnant women who for one reason or another required surgical procedures in the second trimester, I know they were often heavily sedated or anesthesized for the procedures, and the fetuses did not die."

NEXT MOVE IN THE SENATE

At AMNews press time, the Senate was scheduled to debate the bill. Opponents were lining up to tack on amendments, hoping to gut the measure or send it back to a committee where it could be watered down or rejected.

In a statement about the bill, President Clinton did not use the word "veto." But he said he "cannot support" a bill that did not provide an exception to protect the life and health of the mother. Senate opponents of the bill say they will focus on the fact that it does not provide such an exception.

The bill does provide an affirmative defense to a physician who provides this type of abortion if he or she reasonably believes the procedure was necessary to save the life of the mother and no other method would suffice.

But Rep. Patricia Schroeder (D, Colo.) says that's not sufficient. "This means that it is available to the doctor after the handcuffs have snapped around his or her wrists, bond has been posted, and the criminal trial is under way," she said during the House debate.

Canady disagrees. "No physician is going to be prosecuted and convicted under this law if he or she reasonably believes the procedure is necessary to save the life of the mother."

ORGANIZED MEDICINE POSITIONS VARY

The physician community is split on the bill. The California Medical Assn., which says it does not advocate elective abortions in later pregnancy, opposes it as "an unwarranted intrusion into the physician-patient relationship." The American College of Obstetricians and Gynecologists also opposes it on grounds it would "supersede the medical judgment of trained physicians and * * * would criminalize medical procedures that may be necessary to save the life of a woman," said spokeswoman Alice Kirkman.

The AMA has chosen to take no position on the bill, although its Council on Legislation unanimously recommended support. AMA Trustee Nancy W. Dickey, MD, noted that although the board considered seriously the council's recommendations, it ultimately decided to take no position, because it had concerns about some of the bill's language and about Congress legislating medical procedures.

Meanwhile, each side in the abortion debate is calling news conferences to announce how necessary or how ominous the bill is. Opponents highlight poignant stories of women who have elected to terminate wanted pregnancies because of major fetal anomalies.

Rep. Nita Lowey (D, N.Y.) told the story of Claudia Ames, a Santa Monica woman who said the procedure had saved her life and saved her family.

Ames told Lowey that six months into her pregnancy, she discovered the child suffered from severe anomalies that made its survival impossible and placed Ames' life at risk.

The bill's backers were "attempting to exploit one of the greatest tragedies any family can ever face by using graphic pictures and sensationalized language and distortions," Ames said.

Proponents focus on the procedure's cruelty. Frequently quoted is testimony of a nurse. Brenda Shafer, RN, who witnessed three of these procedures in Dr. Haskell's clinic and called it "the most horrifying experience of my life.

"The baby's body was moving. His little fingers were clasping together. He was kicking his feet." Afterwards, she said, "he threw the baby in a pan." She said she saw the baby move. "I still have nightmares about what I saw."

Dr. Hern says if the bill becomes law, he expects it to have "virtually no significance" clinically. But on a political level, "it is very, very significant."

"This bill's about politics," he said, "it's not about medicine."

Mrs. VUCANOVICH. Mr. Speaker, I submit the following material for inclusion in the RECORD:

[From Cincinnati Medicine, Fall 1993]

2ND TRIMESTER ABORTION

(An interview with W. Martin Haskell, MD)

Last summer, American Medical News ran a story on abortion specialists. Included was W. Martin Haskell, MD, a Cincinnati physician who introduced the D&X procedure for second trimester abortions. The Academy received several calls requesting information about D&X. The following interview provides an overview.

Q: What motivated you to become an abortion specialist?

A: I stumbled into it by accident. I did an internship in anesthesia. I worked for a year in general practice in Alabama. I did two years in general surgery, then switched into family practice to get board certified. My intentions at that time were to go into emergency medicine. I enjoyed surgery, but I realized there was an abundance of really good surgeons here in Cincinnati. I didn't feel I'd make much of a contribution. I'd be just another good surgeon. While I was in family practice, I got a part-time job in the Women's Center. Over the course of several months, I recognized things there could be run a lot better, with a much more professional level of service—not necessarily in terms of medical care—in terms of counseling, the physical facility, patient flow, and in the quality of people who provided support services. The typical abortion patient spends less than ten minutes with the physician who performs the surgery. Yet, that patient might be in the facility for three hours.

When I talked to other physicians whose patients were referred here, I saw problems that could be easily corrected. I realized there was an opportunity to improve overall quality of care, and make a contribution. I own the center now.

Q: Back in 1979 when you were making these decisions, did you consider yourself prochoice?

A: I've never been an activist. I've always felt that no matter what the issue, you prove your convictions by your hard work—not by yelling and screaming.

Q: Have there been threats against you?

A: Not directly. Pro-life activist Randall Terry recently said to me that he was going to do everything within his power to have me tried like a Nazi war criminal.

Q: A recent American Medical News article stated that the medical community hadn't really established a point of fetal viability. Why not?

A: Probably because it can't be established with uniform certainty. Biological systems are highly variable. The generally accepted point of fetal viability is around 24–26 weeks. But you can't take a given point in fetal development and apply that 100 percent of the time. It just doesn't happen that way. If you look at premature deliveries and survival percentages at different weeks of gestation, you'll get 24-week fetuses with some survival rate. The fact that you get some survivors demonstrates the difficulty in defining a point.

Q: Most women who get abortions end pregnancies during the first trimester. Who is the typical second-trimester patient?

A: I don't know that there is a typical second-trimester abortion. But if you look at the spectrum of abortions (most women are between the ages of 19 and 29) they tend to be younger. Some are older. The typical thing that happens with older women is that they never realized they were pregnant because they were continuing to bleed during the pregnancy. The other thing we see with older women is fetal malformations or Down's Syndrome. These are being diagnosed much earlier now than they used to be. We're seeing a lot of genetic diagnoses with ultrasound and amniocentesis at 17–18 weeks instead of 22–24 weeks. With the teenagers, anybody who has ever worked with or had teenagers can appreciate how unpredictable they can be at times. They have adult bodies, but a lot of time they don't have adult minds. So their reaction to problems tends to be much more emotional than an adult's might be. It's a question of maturity. So even though they may have been educated about all kinds of issues in reproductive health, when a teenager becomes pregnant, depending upon her relationship with her family, the amount of peer support she has—every one is a highly-individual case—sometimes they delay until they can no longer contain their problem and it finally comes out. Sometimes it's money: It takes them a while to get the money. Sometimes it's just denial.

Q: Do you think more information on abstinence and contraceptives would decrease the number of teenage pregnancies?

A: I grew up in the sixties and nobody talked about contraception with teenagers in the sixties. But today, though it may be controversial in some areas, there's a lot being taught about reproductive health in the high school curricula. I think a lot more is being done, but the bottom line is we're all still just human—with human emotions, and particularly with teenagers, a sense of invulnerability; it can't happen to me. So education helps a lot, but it's not going to eliminate the problem. You can teach a person the skills, but you can't make them use them.

Q: Does it bother you that a second trimester fetus so closely resembles a baby?

A: I really don't think about it. I don't have a problem with believing the fetus is a fertilized egg. Sure it becomes more physically developed but it lacks emotional development. It doesn't have the mental capacity for self-awareness. It's never been an ethical dilemma for me. For people for whom that is an ethical dilemma, this certainly wouldn't be a field they'd want to go into. Many of our patients have ethical dilemmas about abortion. I don't feel it's my role as a physician to tell her she should not have an abortion because of her ethical feelings. As individuals grow and mature, learn more, feel more, experience more, their perspective about themselves and life, morality and ethics change. Facing the situation of abortion is a part of that passage through life for some women—how they resolve that is their decision. I can be their advisor much as a lawyer can be; he can tell you your options, but he can't make you file a suit or tell you not to file a suit. My role is to provide a service and, to a limited degree, help women understand themselves when they make their decision. I'm not to tell them what's right or wrong.

Q: Do your patients ever reconsider?

A: Between our two centers, that happens maybe once a week. There's a patient who changes her mind or becomes truly ambivalent and goes home to reconsider, then might come back a week or two later. I feel that's one of the strengths of how we approach things here. We try not to create pressure to have an abortion. Our view has always been that there are enough women who want abortions that we don't have to coerce anyone to have one. We've always been strongly against pressure on our patients to go ahead with an abortion.

Q: How expensive is a second trimester abortion?

A: Fees range from $1,200–1,600 depending on length of pregnancy. More insurance companies cover abortion than don't cover it. About 15 percent of our patients won't use insurance because they want to maintain privacy. About 10–20 percent use insurance. The rest pay out of pocket.

Q: What led you to develop D&X?

A: D & E's, the procedure typically used for later abortions, have always been somewhat problematic because of the toughness and development of the fetal tissues. Most physicians do terminations after 20 weeks by saline infusion or prosteglandin induction, which terminates the fetus and allows tissue to soften. Here in Cincinnati, I never really explored it, but I didn't think I had that option. There certainly weren't hospitals willing to allow inductions past 18 weeks—even Jewish, when they did abortions, their limit was 18 weeks. I don't know about University. What I saw here in my practice, because we did D & Es, was that we had patients who needed terminations at a later date. So we learned the skills. The later we did them, the more we saw patients who needed them still later. But I just kept doing D & Es because that was what I was comfortable with, up until 24 weeks. But they were very tough. Sometimes it was a 45-minute operation. I noticed that some of the later D & Es were very, very easy. So I asked myself why can't they all happen this way. You see the easy ones would have a foot length presentation, you'd reach in and grab the foot of the fetus, pull the fetus down and the head would hang up and then you would collapse the head and take it out. It was easy. At first, I would reach around trying to identify a lower extremity blindly with the tip of my instrument. I'd get it right about 30–50 percent of the time. Then I said, "Well gee, if I just put the ultrasound up there I could see it all and I wouldn't have to feel around for it. I did that and sure enough, I found it 99 percent of the time. Kind of serendipity.

Q: Does the fetus feel pain?

A: Neurological pain and perception of pain are not the same. Abortion stimulates fibers, but the perception of pain, the memory of pain that we fear and dread are not there. I'm not an expert, but my understanding is that fetal development is insufficient for consciousness. It's a lot like pets. We like to think they think like we do. We ascribe human-like feelings to them, but they are not capable of the same self-awareness we are. It's the same with fetuses. It's natural to project what we feel for babies to a 24-week old fetus.

[From the American Medical News, Jan. 1, 1996]

ANESTHESIOLOGISTS QUESTION CLAIMS IN ABORTION DEBATE

(By Diane M. Gianelli)

WASHINGTON.—When he saw an article in the St. Louis Post-Dispatch that claimed anesthesia caused fetal death in some late-term abortion procedures. David Birnbach, MD, was "shocked."

"I thought, 'This is crazy,'" said Dr. Birnbach, who is director of obstetric anesthesiology at New York's St. Luke's-Roosevelt Hospital Center, and vice president of the Society for Obstetric Anesthesia and Perinatology.

"Everyday we have pregnant patients who get anesthesia—women who break their ankles, need knee surgery, have appendectomies, gallbladder removals, breast biopsies, and so on. Anesthetics done safely by an anesthesiologist do not do harm to either the mother or the baby," he said.

The anesthesia-causes-fetal-death claim was made by one of the two U.S. physicians who specialized in a particular type of late-term abortion that opponents call "partial birth" abortions. The contention has been repeated by other proponents of the procedure, who refer to it as "intact D&E" (for dilation and evacuation) or "D&X" (dilation and extraction).

Medical experts contend the claim is scientifically unsound and irresponsible, unnecessarily worrying pregnant women who need anesthesia. But while some are now qualifying their assertion that anesthesia induces fetal death, they are not backing away from it.

When Rep. Charles T. Canady (R, Fla.) introduced a bill to ban the procedure, James T. McMahon, MD, a Los Angeles area family physician who specialized in this procedure before his recent death, responded. Dr. McMahon wrote that the anesthesia given to the mother before the abortion causes "neurological fetal demise."

The bill to ban the procedure, passed late last year by both the House and the Senate, defines it as one in which the provider "partially vaginally delivers a living fetus before killing the fetus and completing the delivery."

The procedure was recently banned in Ohio, where its other main practitioner, Martin Haskell, MD, lives. But a federal judge declared the law there unconstitutional in a preliminary injunction last month.

On the federal level, the bill faces a presidential veto threat, and while the measure passed the House by a 2-to-1 ratio, proponents do not have enough Senate votes to override a veto.

The claim about anesthesia causing fetal death has been repeated by many of the bill's opponents, including the National Abortion Federation, the National Abortion and Reproductive Rights Action League, and members of Congress. A recent Planned Parenthood "fact sheet" on these late-term abortions claims that "the fetus dies from an overdose of anesthesia given to the mother intravenously."

The distinction of when fetal death occurs is critical, because the bill would ban only procedures in which the fetus was killed after being partially delivered alive through the birth canal. If it could be proved that the fetuses died inside the womb—from anesthesia or any other cause—the abortion would not fall under the proposed law.

After reading the anesthesia-kills-fetuses claim in the St. Louis paper, the American Society of Anesthesiologists issued a press release denouncing it. And in testimony before the Senate, Norig Ellison, MD, president of the society—which did not take a position on the bill—called Dr. McMahon's statements "entirely inaccurate."

He added that he was "deeply concerned" that the widespread publicity given to Dr. McMahon's claims "may cause pregnant women to delay necessary and perhaps even life-saving medical procedures, totally unrelated to the birthing process, due to misinformation regarding the effect of anesthetics on the fetus."

In fact, cases of maternal concern have already surfaced. Dr. Birnbach said he has already had patents raise questions. And Rep. Tom Coburn, MD, an Oklahoma Republican who still delivers babies when he goes home on weekends, said he just had a patient refuse epidural anesthesia during childbirth after hearing those claims. Dr. Coburn is a co-sponsor of the bill.

Dr. Ellison, vice chair of the Dept. of Anesthesiology at the University of Pennsylvania School of Medicine in Philadelphia, testified that very little of the anesthetic given the mother ever reaches, the fetus. He added that "in my medical judgment, it would be necessary—in order to achieve 'neurological demise' of a fetus in a 'partial birth' abortion—to anesthetize the mother to such a degree as to place her own health in serious jeopardy."

Planned Parenthood's Mary Campbell, MD, who wrote the fact sheet claiming anesthesia cases fetal death, was grilled during the Senate Judiciary Committee hearing Nov. 17, 1995, by Sen. Spence Abraham (R, Mich.).

When prodded, she conceded "I do not know what causes the fetus to die." When asked why her fact sheet attributes the cause to anesthesia, she replied, "I simplified that for Congress."

Afer the hearing, Dr. Campbell wrote to Sen. Barbara Boxer, (D, Calif.), who led the movement against the bill in the Senate. In her letter, Dr. Campbell repeated that anesthesia caused fetal death, but added some caveats. She said it "may lead to fetal demise (death) in a fetus weakened by its own developmental anomalies."

"In other cases," she wrote, "these drugs prevent the perception of pain by the fetus; they cause depression of fetal respiration before the extraction procedure and preclude fetal respiration afterward."

Dr. Birnbach disputes her contention. Even in the very high-end doses she mentioned, he said—10 mg to 40 mg of Versed, given in 1 mg to 2 mg increments, and 900 ug to 2,500 ug of fentanyl, given in 100 ug to 150 ug increments—"anesthesia does not kill an infant if you don't kill the mother."

He added that when patients receive the high-end dosage range specified by Dr. Campbell, the mother was in fact at risk for depressed breathing. "You can't give those high doses without harming the mother unless the mother is assisted in her breathing," he said.

Dr. Birnbach said that, on occasion, he has given even larger doses than the high-end ones cited by Dr. Campbell and has never caused any harm to either the mother or the fetus.

He also said that Dr. Campbell's claims that the medications depress fetal respiration before the abortion takes place were "immaterial" because fetuses don't breathe in the womb.

Dr. Birnbach added, however, that an infant born alive with depressed respiration can still survive normally. "The narcotics are not a problem. We can reverse the narcotics and we can breathe for the baby."

Another recurring theme at both the hearings and during the ensuing debate about the procedure centers around fetal pain. Specialists in this procedure claim the fetus feels no pain for a variety of reasons, but usually because they say fetuses lack the neural development necessary to perceive pain, or if they are capable of feeling pain, anesthesia given to the mother prevents the preception of pain in the fetus.

Robert J. White, MD, PhD, professor of neurosurgery at Case Western University in Cleveland, testified on the topic before Congress last summer. "There are published scientific studies that demonstrate that by the 20th week, many of the neuronal pathways that sense pain have already started to develop," he said. "By the 24th week, the connections of the cortex and the thalamus are well under way. . . . There is no way to argue with impunity that pain reception is not possible."

Michael J. Murray, MD, an anesthesiologist at the Mayo Clinic in Rochester, Minn., and president of the Minnesota Medical Assn., agrees.

In fact, he said, physicians doing fetal surgery inject narcotic fentanyl and muscle relaxants into the umbilical cord to provide pain relief, even though the mother is already anesthetized, "because what they get from the mom is not enough." He added that studies on neonates getting surgery right after birth indicate that those who were given opioids had much better outcomes than those who were just given muscle relaxants.

The bottom line for many anesthesiologists, regardless of their position on abortion: Women should not be concerned about questionable claims thrown out in the heat of the debate.

"Women who need anesthesia for emergency surgery during pregnancy or who request analgesia for labor should take heart that both they and their babies will do just fine," Dr. Birnbach said.

Mr. CANADY of Florida. Mr. Speaker, I submit the following material for inclusion in the RECORD.

March 27, 1996.

THE SMITH-DOLE SENATE AMENDMENT PROTECTS THE LIFE OF THE MOTHER

DEAR COLLEAGUE: This is in response to a March 26 "Dear Colleague" from Reps. Nita Lowey and Nancy Johnson, which ran under the very misleading headline, "The Dole Amendment Endangers Women's Lives."

As initially passed by the House on Nov. 1, 1995—with 288 votes—HR 1833 contained an "affirmative defense" provision that protected a doctor if he showed that he "reasonable believed" that a partial-birth abortion procedure was necessary to save a mother's life. These sorts of "affirmative defense" exceptions are found in literally dozens of federal criminal statutes. However, opponents of HR 1833 distorted the legal effect of the "affirmative defense" mechanism. Therefore, the prime sponsor of the Senate bill, Sen. Bob Smith (who for some curious reason is not mentioned in the Lowey-Johnson letter) and Sen. Dole offered an amendment that says the ban "shall not apply to a partial-birth abortion that is necessary to save the life of a mother whose life is endangered by a physical disorder, illness, or injury: Provided, That no other medical procedure would suffice for that purpose."

Senator Barbara Boxer—the leading Senate opponent of HR 1833—immediately endorsed the Smith-Dole Amendment, which was adopted 98-0. Here is what Senator Boxer said on the floor of the Senate: "And now here we have it. Here we have it, an exception now for life of the mother. I think that is progress. I think that is progress, because when we started, there was no exception. It was an affirmative defense." [Congressional Record, Dec. 5, 1995, p. S 18005]

Moreover, in a Jan. 31 letter to Cardinal Anthony Bevilacqua of Philadelphia, President Clinton himself recognized that the Senate had added a life-of-mother exception (but the President continues to demand the addition of the gutting "health exception" endorsed by the National Abortion and Reproductive Rights Action League.)

Reps. Lowey and Johnson write, "It is unclear whether pregnancy would legally constitute a physical disorder." A normal pregnancy does not constitute a life-threatening condition—but in those rare cases in which a "physical disorder, illness, or injury" causes the pregnancy to threaten a mother's life, the Senate exception obviously applies. With respect, our colleagues' reading of the Senate language is absurdly convoluted, and violates standard principles of statutory construction.

As to our colleagues' other objections: let's keep in mind that a partial-birth abortion involves the almost complete delivery of a living baby, who is then killed. Now, if the entire baby has been delivered alive, except for the head, supposedly without jeopardy to the mother, why can't the doctor simply deliver the head as well, without killing the baby?

When the American Medical News put essentially that very question to Dr. Martin Haskell (who has done over 1,000 partial-birth abortions) in a tape-recorded interview, Dr. Haskell's answer was both candid and chilling: "The point here is you're attempting to do an abortion . . . not to see how do I manipulate the situation so that I get a live birth instead," he said.

(There are rare cases in which a baby suffers from such severe hydrocephaly—head enlargement caused by excess fluid in the skull—so that without intervention, both vaginal delivery and a Caesarian could pose risks to the mother. In those cases, according to Prof. Watson Bowes, a nationally eminent authority on fetal and maternal medicine who is co-editor of the Obstetrical and Gynecological Survey, the standard treatment is cephalocentesis—removal of excess fluid through a needle. "Fluid is then withdrawn which results in reduction of the size in the head so that delivery can occur,"

wrote Prof. Bowes. "This procedure is not intended to kill the fetus, and, in fact, is usually associated with the birth of a live infant.")

Attempts by HR 1833 opponents to "revive" the life-of-mother issue are merely another reflection of their refusal to come to grips with the uncomfortable fact—which is amply documented in the writings and validated statements of partial-birth abortion practitioners—that the overwhelming majority of partial-birth abortions have nothing whatever to do with life-threatening complications of pregnancy, but are (in the words of Dr. Martin Haskell) "purely elective."

Sincerely,

HENRY J. HYDE,
Chairman.

"FETAL DEATH" OR DANGEROUS DECEPTION? THE EFFECTS OF ANESTHESIA DURING A PARTIAL-BIRTH ABORTION

The claim that anesthesia given to a pregnant woman kills her fetus/baby before a partial-birth abortion is performed has "absolutely no basis in scientific fact," according to Dr. Norig Ellison, the president of the American Society of Anesthesiologists. It is "crazy," says Dr. David Birnbach, the president-elect of the Society for Obstetric Anesthesia and Perinatology.

Despite such authoritative statements, this medical misinformation is still being disseminated. Here are a few examples:

ABORTION ADVOCATES

KATE MICHELMAN OF THE NATIONAL ABORTION RIGHTS ACTION LEAGUE (NARAL)

One of the leading proponents of the "anesthesia myth" is Kate Michelman, president of the National Abortion Rights Action League (NARAL). For example, in an interview on "Newsmakers," KMOX-AM in St. Louis on Nov. 2, 1995, Ms. Michelman said: The other side grossly distorted the procedure. There is no such thing as a "partial-birth." That's, that's a term made up by people like these anti-choice folks that you had on the radio. The fetus—I mean, it is a termination of the fetal life, there's no question about that. And the fetus, is, before the procedure begins, the anesthesia that they give the woman already causes the demise of the fetus. That is, it is not true that they're born partially. That is a gross distortion, and it's really a disservice to the public to say this.

DR. MARY CAMPBELL OF PLANNED PARENTHOOD

Prior to the November 1, 1995, House vote on the bill, Planned Parenthood circulated to lawmakers a "fact sheet" titled, "H.R. 1833, Medical Questions and Answers," which includes this statement:

"Q: When does the fetus die?

"A: The fetus dies of an overdose of anesthesia given to the mother intravenously. A dose is calculated for the mother's weight which is 50 to 100 times the weight of the fetus. The mother gets the anesthesia for each insertion of the dilators, twice a day. This induces brain death in a fetus in a matter of minutes. Fetal demise therefore occurs at the beginning of the procedure while the fetus is still in the womb."

THE NEW YORK DAILY NEWS

The fetus is partially removed from the womb, its head collapsed and brain suctioned out so it will fit through the birth canal. The anesthesia given to the woman kills the fetus before the full procedure takes place. But you won't hear that from the anti-abortion extreme. It would have everybody believe the fetus is dragged alive from the womb of a woman just weeks away from birth. Not true. (Editorial, Dec. 15, 1995)

USA TODAY

"The fetus dies from an overdose of anesthesia given to its mother." (Editorial, Nov. 3, 1995)

THE ST. LOUIS POST-DISPATCH

"The fetus usually dies from the anesthesia administered to the mother before the procedure begins." (News story, Nov. 3, 1995)

SYNDICATED COLUMNIST ELLEN GOODMAN

Syndicated columnist Ellen Goodman wrote in mid-November that, if one relied on statements by supporters of the bill, "You wouldn't even know that anesthesia ends the life of such a fetus before it comes down the birth canal."

THE TRUTH

"Medical experts contend the claim is scientifically unsound and irresponsible, unnecessarily worrying pregnant women who need anesthesia." (American Medical News, January 1, 1996)

"[A]nesthesia does not kill an infant if you don't kill the mother." (Dr. David Birnbach quoted in American Medical News, January 1, 1996)

"I am deeply concerned, moreover, that widespread publicity . . . may cause pregnant women to delay necessary and perhaps life-saving medical procedures, totally unrelated to the birthing process, due to misinformation regarding the effect of anesthetics on the fetus." (Dr. Norig Ellison, Nov. 17, 1995, testimony before Senate Judiciary Committee)

"Drugs administered to the mother, either local anesthesia administered in the paracervical area or sedatives/analgesics administered intramuscularly or intravenously, will provide no-to-little analgesia [relief from pain] to the fetus." (Dr. Norig Ellison, November 22, 1995, letter to Senate Judiciary Committee)

Mr. SALMON. Mr. Speaker, I submit the following material for inclusion in the RECORD:

AMERICAN MEDICAL NEWS,
PUBLISHED BY THE AMA,
Chicago, IL, July 11, 1995.

Hon. CHARLES T. CANADY,
Chairman, Subcommittee on the Constitution, Committee on the Judiciary, U.S. House of Representatives, Rayburn House Office Bldg., Washington, DC

DEAR REPRESENTATIVE CANADY: We have received your July 7 letter outlining allegations of inaccuracies in a July 5, 1993, story in American Medical News, "Shock-tactic ads target late-term abortion procedure."

You noted that in public testimony before your committee, AMNews is alleged to have quoted physicians out of context. You also noted that one such physician submitted testimony contending that AMNews misrepresented his statements. We appreciate your offer of the opportunity to respond to these accusations, which now are part of the permanent subcommittee record.

AMNews stands behind the accuracy of the report cited in the testimony. The report was complete, fair, and balanced. The comments and positions expressed by those interviewed and quoted were reported accurately and in context. The report was based on extensive research and interviews with experts on both sides of the abortion debate, including interviews with two physicians who perform the procedure in questions.

We have full documentation of these interviews, including tape recordings and transcripts. Enclosed is a transcript of the contested quotes that relate to the allegations of inaccuracies made against AMNews.

Let me also note that in the two years since publication of our story, neither the organization nor the physician who complained about the report in testimony to your committee has contacted the reporter or any editor at AMNews to complain about it. AMNews has a longstanding reputation for balance, fairness and accuracy in reporting, including reporting on abortion, an issue that is as divisive within medicine as it is within society in general. We believe that the story in question comports entirely with that reputation.

Thank you for your letter and the opportunity to clarify this matter.

Respectfully yours,

BARBARA BOLSEN,
Editor.

Attachment.

AMERICAN MEDICAL NEWS TRANSCRIPT

Relevant portions of recorded interview with Martin Haskell, M.D.

AMN. Let's talk first about whether or not the fetus is dead beforehand . . .

HASKELL. No it's not. No, it's really not. A percentage are for various numbers of reasons. Some just because of the stress—intrauterine stress during, you know, the two days that the cervix is being dilated. Sometimes the membranes rupture and it takes a very small superficial infection to kill a fetus in utero when the membranes are broken. And so in my case, I would think probably about a third of those are definitely are (sic) dead before I actually start to remove the fetus. And probably the other two-thirds are not.

AMN. Is the skull procedure also done to make sure that the fetus is dead so you're not going to have the problem of a live birth?

HASKELL. It's immaterial. If you can't get it out, you can't get it out.

AMN. I mean, you couldn't dilate further? Or is that riskier?

HASKELL. Well, you could dilate further over a period of days.

AMN. would that just make it . . . would it go from a 3-day procedure to a 4- or a 5-?

HASKELL. Exactly. The point here is to effect a safe legal abortion. I mean, you could say the same thing about the D&E procedure. You know, why do you do the D&E procedure? Why do you crush the fetus up inside the womb? To kill it before you take it out?

Well, that happens, yes. But that's not why you do it. YOu do it to get it out. I could do the same thing with a D&E procedure. I could put dilapan in for four or five days and say I'm doing a D&E procedure and the fetus could just fall out. But that's not really the point. The point here is you're attempting to do an abortion. And that's the goal of your work, is to complete an abortion. Not to see how do I manipulate the situation so that I get a live birth instead.

AMN, wrapping up the interview. I wanted to make sure I have both you and (Dr.) McMahon saying 'No' then. That this is misinformation, these letters to the editor saying it's only done when the baby's already dead, in case of fetal demise and you have to do an autopsy. But some of them are saying they're getting that information from NAF. Have you talked to Barbara Radford or anyone over there? I called Barbara and she called back, but I haven't gotten back to her.

HASKELL. Well, I had heard that they were giving that information, somebody over there might be giving information like that out. The people that staff the NAF office are not medical people. And many of them when I gave my paper, many of them came in, I learned later, to watch my paper because many of them have never seen an abortion performed of any kind.

AMN. Did you also show a video when you did that?

HASKELL. Yeah. I taped a procedure a couple of years ago, a very brief video, that simply showed the technique. The old story about a picture's worth a thousand words.

AMN. As National Right to Life will tell you.

HASKELL. Afterwards they were just amazed. They just had no idea. And here they're rabid supporters of abortion. They work in the office there. And . . . some of them have never seen one performed . . .

Comments on elective vs. non-elective abortions:

HASKELL. And I'll be quite frank: most of my abortions are elective in that 20–24 week range . . . In my particular case, probably 20% are for genetic reasons. And the other 80% are purely elective.

[From the American Medical News, July 5, 1993]

SHOCK-TACTIC ADS TARGET LATE-TERM ABORTION PROCEDURE

FOES HOPE CAMPAIGN WILL SINK FEDERAL ABORTION RIGHTS LEGISLATION

(By Diana M. Gianelli)

WASHINGTON.—In an attempt to derail an abortion-rights bill maneuvering toward a congressional showdown, opponents have launched a full-scale campaign against late-term abortions.

The centerpieces of the effort are newspaper advertisements and brochures that graphically illustrate a technique used in some second- and third-trimester abortions. A handful of newspapers have run the ads so far, and the National Right to Life Committee has distributed 4 million of the brochures, which were inserted into about a dozen other papers.

By depicting a procedure expected to make most readers squeamish, campaign sponsors hope to convince voters and elected officials that a proposed federal abortion-rights bill is so extreme that states would have no authority to limit abortions—even on potentially viable fetuses.

According to the Alan Guttmacher Institute, a research group affiliated with Planned Parenthood, about 10% of the estimated 1.6 million abortions done each year are in the second and third trimesters.

Barbara Radford of the National Abortion Federation denounced the ad campaign as disingenuous, saying its "real agenda is to outlaw virtually all abortions, not just late-term ones." But she acknowledged it is having an impact, reporting scores of calls from congressional staffers and others who have seen the ads and brochures and are asking pointed questions about the procedure depicted.

The Minneapolis Star-Tribune ran the ad May 12, on its op-ed page. The anti-abortion group Minnesota Citizens Concerned for Life paid for it.

In a series of drawings, the ad illustrates a procedure called "dilation and extraction," or D&X, in which forceps are used to remove second- and third-trimester fetuses from the uterus intact, with only the head remaining inside the uterus.

The surgeon is then shown jamming scissors into the skull. The ad says this is done to create an opening large enough to insert a catheter that suctions the brain, while at the same time making the skull small enough to pull through the cervix.

"Do these drawings shock you?" the ad reads. "We're sorry, but we think you should know the truth."

The ad quotes Martin Haskell, MD, who described the procedure at a September 1992 abortion-federation meeting, as saying he personally has performed 700 of them. It then states that the proposed "Freedom of Choice Act" now moving through Congress would "protect the practice of abortion at all stages and would lead to an increase in the use of this grisly procedure."

ACCURACY QUESTIONED

Some abortion-rights advocates have questioned the ad's accuracy.

A letter to the Star-Tribune said the procedure shown "is only performed after fetal death when an autopsy is necessary or to save the life of the mother." And the Morrisville, Vt., Transcript, which said in an editorial that it allowed the brochure to be inserted in its paper only because it feared legal action if it refused, quoted the abortion federation as providing similar information. "The fetus is dead 24 hours before the pictured procedure is undertaken," the editorial stated.

But Dr. Haskell and another doctor who routinely use the procedure for late-term abortions told AMNews that the majority of fetuses aborted this way are alive until the end of the procedure.

Dr. Haskell said the drawing were accurate "from a technical point of view." But he took issue with the implication that the fetuses were "aware and resisting."

Radford also acknowledged that the information her group was quoted as providing was inaccurate. She has since sent a letter to federation members, outlining guidelines for discussing the matter. Among the points:

Don't apologize; this is a legal procedure.

No abortion method is acceptable to abortion opponents.

The language and graphics in the ads are disturbing to some readers. "Much of the negative reaction, however, is the same reaction that might be invoked if one were to listen to a surgeon describing step-by-step almost any other surgical procedure involving blood, human tissue, etc."

LATE-ABORTION SPECIALISTS

Only Dr. Haskell, James T. McMahon, MD, of Los Angeles, and a handful of other doctors perform the D&X procedure, which Dr. McMahon refers to as "intact D&E." The more common late-term abortion methods are the classic D&E and induction, which usually involves injecting digoxin or another substance into the fetal heart to kill it, then dilating the cervix and inducing labor.

Dr. Haskell, who owns abortion clinics in Cincinnati and Dayton, said he started performing D&Es for late abortions out of necessity. Local hospitals did not allow inductions past 18 weeks, and he had no place to keep patients overnight while doing the procedure.

But the classic D&E, in which the fetus is broken apart inside the womb, carries the risk of perforation, tearing and hemorrhaging, he said. So he turned to the D&X, which he says is far less risky to the mother.

Dr. McMahon acknowledged that the procedure he, Dr. Haskell and a handful of other doctors use makes some people queasy. But he defends it. "Once you decide the uterus must be emptied, you then have to have 100% allegiance to maternal risk. There's no justification to doing a more dangerous procedure because somehow this doesn't offend your sensibilities as much."

BROCHURE CITES N.Y. CASE

The four-page anti-abortion brochures also include a graphic depiction of the D&X procedure. But the cover features a photograph of 16-month-old Ana Rosa Rodriquez, whose right arm was severed during an abortion attempt when her mother was 7 months pregnant.

The child was born two days later, at 32 to 34 weeks' gestation. Abu Hayat, MD, of New York, was convicted of assault and performing an illegal abortion. He was sentenced to up to 29 years in prison for this and another related offense.

New York law bans abortions after 24 weeks, except to save the mother's life. The brochure states that Dr. Hayat never would have been prosecuted if the federal "Freedom of Choice Act" were in effect, because the act would invalidate the New York statute.

The proposed law would allow abortion for any reason until viability. But it would leave it up to individual practitioners—not the state—to define that point. Postviability abortions, however, could not be restricted if done to save a woman's life or health, including emotional health.

The abortion federation's Radford called the Hayat case "an aberration" and stressed that the vast majority of abortions occur within the first trimester. She also said that later abortions usually are done for reasons of fetal abnormality or maternal health.

But Douglas Johnson of the National Right to Life Committee called that suggestion "blatantly false."

"The abortion practitioners themselves will admit the majority of their late-term abortions are elective," he said. "People like Dr. Haskell are just trying to teach others how to do it more efficiently."

NUMBERS GAME

Accurate figures on second- and third-trimester abortions are elusive because a number of states don't require doctors to report abortion statistics. For example, one-third of all abortions are said to occur in California, but the state has no reporting requirements. The Guttmacher Institute estimates there were nearly 168,000 second- and third-trimester abortions in 1988, the last year for which figures are available.

About 60,000 of those occurred in the 16- to 20-week period, with 10,660 at week 21 and beyond, the institute says. Estimates were based on actual gestational age, as opposed to last menstrual period.

There is particular debate over the number of third-trimester abortions. Former Surgeon General C. Everett Koop, MD, estimated in 1984 that 4,000 are performed annually. The abortion federation puts the number at 300 to 500. Dr. Haskell says that "probably Koop's numbers are more correct."

Dr. Haskell said he performs abortions "up until about 25 weeks' "gestation, most of them elective. Dr. McMahon does abortions through all 40 weeks of pregnancy, but said he won't do an elective procedure after 26 weeks. About 80% of those he does after 21 weeks are nonelective, he said.

MIXED FEELINGS

Dr. McMahon admits having mixed feelings about the procedure in which he has chosen to specialize.

"I have two positions that may be internally inconsistent, and that's probably why I fight with this all the time," he said.

"I do have moral compunctions. And if I see a case that's later, like after 20 weeks where it frankly is a child to me, I really agonize over it because the potential is so imminently there. I think, 'Gee, it's too bad that this child couldn't be adopted.'

"On the other hand, I have another position, which I think is superior in the hierarchy of questions, and that is: 'Who owns the child?' It's got to be the mother."

Dr. McMahon says he doesn't want to "hold patients hostage to my technical skill. I can say, 'No, I won't do that,' and then they're stuck with either some criminal solution or some other desperate maneuver."

Dr. Haskell, however, says whatever qualms he has about third-trimester abortions are "only for technical reasons, not for emotional reasons of fetal development."

"I think it's important to distinguish the two," he says, adding that his cutoff point is within the viability threshold noted in *Roe* v. *Wade*, the Supreme Court decision that legalized abortion. The decision said that point usually occurred at 28 weeks "but may occur earlier, even at 24 weeks."

Viability is generally accepted to be "somewhere between 25 and 26 weeks," said Dr. Haskell. "It just depends on who you talk to.

"We don't have a viability law in Ohio. In New York they have a 24-week limitation. That's how Dr. Hayat got in trouble. If somebody tells me I have to use 22 weeks, that's fine . . . . I'm not a trailblazer or activist trying to constantly press the limits."

CAMPAIGN'S IMPACT DEBATED

Whether the ad and brochures will have the full impact abortion opponents intend is yet to be seen.

Congress has yet to schedule a final showdown on the bill. Although it has already passed through the necessary committees, supporters are reluctant to move it for a full House and Senate vote until they are sure they can win.

In fact, House Speaker Tom Foley (D, Wash.) has said he wants to bring the bill for a vote under a "closed rule" procedure, which would prohibit consideration of amendments.

But opponents are lobbying heavily against Foley's plan. Among the amendments they wish to offer is one that would allow, but not require, states to restrict abortion—except to save the mother's life—after 24 weeks.

Mr. SMITH of New Jersey. Mr. Speaker, I submit the following material for inclusion in the RECORD:

PARTIAL-BIRTH ABORTIONS: BEHIND THE MISINFORMATION

(By Douglas Johnson, NRLC Federal Legislative Director)

NOTE: The Partial-Birth Abortion Ban Act (HR 1833) has been approved in slightly different versions by the U.S. House of Representatives (Nov. 1, 1995, on a vote of 288–139) and by the U.S. Senate (Dec. 7, 1995, on a vote of 54–44). It is expected that the House will approve the Senate-passed bill on March 27 and send it to President Clinton soon thereafter. President Clinton will veto the bill because "the President shares the view of many that it would represent an erosion of a woman's right to choose," White House Press Secretary Mike McCurry said on December 20, 1995.

Opponents of the bill have disseminated an extraordinary amount of misinformation regarding the partial-birth abortion procedure and the legislation—much of it starkly contradicted by the past writings and recorded statements of doctors who have performed thousands of partial-birth abortions. Some of this misinformation has been adopted and widely disseminated by some journalists, columnists, editorialists, and lawmakers. This factsheet addresses some of these issues.

WHAT IS THE PARTIAL-BIRTH ABORTION BAN ACT (HR 1833)?

The Partial-Birth Abortion Ban Act (HR 1833) would place a national ban on use of the partial-birth abortion procedure, except in cases (if there are any) in which the procedure is necessary to save the life of a mother.

The bill specifically defines a "partial-birth abortion" as "an abortion in which the person performing the abortion partially vaginally delivers a living fetus before killing the fetus and completing the delivery." [emphasis added] Abortionists who violate the law would be subject to both criminal and civil penalties, but no penalty could be applied to the woman who obtained such an abortion.

The bill is aimed at a procedure that has often been utilized by Dr. Martin Haskell of Dayton, Ohio; by the late Dr. James McMahon of Los Angeles; and by others. This procedure is generally used beginning at 20 weeks (4½ months) into the pregnancy, is "routinely" used to 5½ months, and has often been used even during the final three months of pregnancy.

The Los Angeles Times accurately and succinctly described this abortion method in a June 16, 1995 news story:

The procedure requires a physician to extract a fetus, feet first, from the womb and through the birth canal until all but its head is exposed. Then the tips of surgical scissors are thrust into the base of the fetus' skull, and a suction catheter is inserted through the opening and the brain is removed.

In 1992, Dr. Haskell wrote a paper ("Dilation and Extraction for Late Second Trimester Abortion") that described in detail, step-by-step, how to perform the procedure. Anyone who is seriously seeking the truth behind the conflicting claims regarding partial-birth abortions would do well to start by reading Dr. Haskell's paper, and the transcripts of the explanatory interviews that Dr. Haskell gave in 1993 to the publications American Medical News (the official AMA newspaper) and Cincinnati Medicine.

Regarding the procedure, Dr. Haskell wrote, "Among its advantages are that it is a quick, surgical outpatient method that can be performed on a scheduled basis under local anesthesia." (p. 33). Dr. Haskell also wrote that he "routinely performs this procedure on all patients 20 through 24 weeks LMP [i.e., from last menstrual period] with certain exceptions" [i.e., from 4½ to 5½ months], these "exceptions" involving complicating factors such as being more than 20 pounds overweight.

Dr. Haskell also wrote that he used the procedure through 26 weeks [six months] "on selected patients." [p.28]

Dr. James McMahon used essentially the same procedure to a much later point—even into the ninth month. (Dr. McMahon died of cancer on Oct. 28, 1995.)

In a letter to Congressman Charles Canady dated March 19, 1996, Dr. William Rashbaum of New York City wrote that he has performed the procedure "routinely since 1979. This procedure is performed only in cases of later gestational age."

DOES THE BILL CONTAIN AN EXCEPTION FOR LIFE-OF-THE-MOTHER CASES?

As originally passed by the House on November 1, 1995, HR 1833 contained an "affirmative defense" provision, which would have shielded an abortionist from civil and criminal liability if he showed that he had "reasonably believed" that utilization of the partial-birth abortion procedure was necessary to save the life of a mother.

Similar "affirmative defense" exceptions are found in literally dozens of federal criminal laws. Nevertheless, after bill opponents distorted this provision, NRLC endorsed and the Senate unanimously adopted the Smith-Dole Amendment, which provides that the ban "shall not apply to a partial-birth abortion that is necessary to save the life of a mother whose life is endangered by a physical disorder, illness, or injury."

Senator Barbara Boxer (D–Ca.), the lead Senate opponent of the HR 1833, immediately endorsed the Smith-Dole Amendment, saying:

And now here we have it. Here we have it, an exception now for life of the mother. I think that is progress, because when we started there was no exception. It was an affirmative defense. [Congressional Record, Dec. 5, 1995, p. S 18005]

Under the Smith-Dole Amendment, an abortionist could not be convicted of a violation of the law unless the government proved, beyond a reasonable doubt, that the abortion was not covered by this exception. (In addition, of course, the government would have to prove, beyond a reasonable doubt, all of the other elements of the offense—that the abortionist "knowingly" partly removed a baby from the womb, that the baby was still alive, and that the abortionist then killed the baby.)

In a Jan. 31 letter to Cardinal Anthony Bevilacqua of Philadelphia, President Clinton acknowledged that the Senate had added a life-of-mother exception.

WHAT FURTHER CHANGES DOES PRESIDENT CLINTON DEMAND IN THE BILL?

In a February 28, 1996 letter to certain Members of Congress, the President insisted that abortionists must be permitted to use the procedure, not only to save a mother's life, but also whenever they assert that the procedure is necessary to prevent unspecified "serious health consequences."

The President's letter proposed precisely the language of an amendment offered on the Senate floor by Sen. Barbara Boxer (D–Ca.), which was endorsed by the National Abortion and Reproductive Rights Action League (NARAL) as a "pro-choice vote."

NARAL and other pro-abortion advocacy groups clearly recognized that the Boxer Amendment amounted to a re-statement of the status quo. After the Boxer Amendment was defeated by only a two-vote margin (51 to 47), a spokeswoman for the pro-abortion Alan Guttmacher Institute said, "We were almost able to kill the bill." (Congressional Quarterly Weekly Report, Dec. 9, 1995, page 3738)

President Clinton—a Yale Law School graduate who once taught constitutional law—understands very well that with respect to abortion, "health" is a legal term of art. In Doe v. Bolton (the companion case to Roe v. Wade), the Supreme Court defined "health" (in the abortion context) to include "all factors—physical, emotional, psychological, familial, and the woman's age—relevant to the well-being of the patient."

Thus, the Boxer Amendment (demanded by President Clinton) would allow abortionists to continue to perform partial-birth abortions, even during the seventh, eighth, and ninth months, for reasons such as "depression." This is not a far-fetched hypothetical, as discussed below under "For What Reasons Are Partial-Birth Abortions Usually Performed?"

Senator Boxer has added the word "serious" before "health," for optical effect, but adding the word does not legally narrow the scope of "health," since the amendment confers on the abortionist himself the unlimited power to define whether the "depression" or other "health" concern is "serious." No partial-birth abortion would ever be blocked by

the law, because the Boxer Amendment confers on the abortionist absolute authority to decide what the law means ("in the medical judgment of the attending physician").

Thus, a "life" exception and a "health" exception are two vastly different things. For example: Prior to enactment of the Hyde Amendment in 1976, the federal Medicaid program paid for 300,000 "health" or "medically necessary" abortions a year; the term was construed to cover any physician-performed abortion. The Hyde Amendment limited reimbursement to "life" cases, which have been on the order of 100 to 200 annually. In other words, the ratio of "health" cases to "life" cases, under Medicaid, was more than 1,000 to 1.

HOW MANY PARTIAL-BIRTH ABORTIONS ARE PERFORMED?

Nobody knows. Pro-abortion groups have claimed that "only" 450 such procedures are performed every year. But the combined practices of Dr. Martin Haskell and the late Dr. James McMahon alone would have approximated that figure.

In a letter to Congressman Canady dated March 19, 1996, New York doctor William K. Rashbaum wrote that he has performed the procedure that would be banned by HR 1833 "routinely since 1979. This procedure is performed only in cases of later gestational age." Moreover, The New York Times reported in a Nov. 6, 1995 news story about the bill:

"Of course I use it, and I've taught it for the last 10 years," said a gynecologist at a New York teaching hospital, who spoke on the condition of anonymity. "So do doctors in other cities."

It is impossible to know how many other abortionists have adopted the procedure, without choosing to write articles or grant interviews on the subject. Both Haskell and McMahon spent years trying to convince other abortionists of the merits of the procedure. That is why Haskell wrote his 1992 instructional paper. For years, Mr. McMahon was director of abortion instruction at the Cedar Sinai Medical Center in Los Angeles.

There are at least 164,000 abortions a year after the first three months of pregnancy, and 13,000 abortions annually after 4½ months, according to the Alan Guttmacher Institute (New York Times, July 5 and November 6, 1995), which is an arm of Planned Parenthood. These numbers should be regarded as minimums, since they are based on voluntary reporting to the AGI.

FOR WHAT REASONS ARE PARTIAL-BIRTH ABORTIONS TYPICALLY PERFORMED?

Some opponents of HR 1833, such as NARAL and the Planned Parenthood Federation of America (PPFA), have persistently disseminated claimed that the procedure is employed only in cases involving extraordinary threats to the mother of grave fetal disorders. Regrettably, more than a few reporters, commentators, and members of Congress have uncritically embraced such claims and disseminated them as "facts."

For example, PPFA said in a press release that the procedure is "done only in cases when the woman's life is in danger or in cases of extreme fetal abnormality." (Nov. 1, 1995) But (as PPFA well knows), this claim is inconsistent with the writings and recorded statements of doctors who have performed thousands of these procedures, or with documents gathered by the House and Senate judiciary committees.

Dayton abortionist Dr. Martin Haskell, who wrote a paper describing step-by-step how to perform the procedure (he's done over 1,000), described it as "a quick, surgical outpatient method that can be performed on a scheduled basis under local anesthesia."

Dr. Haskell wrote that he "routinely performs this procedure on all patients 20 through 24 weeks" (4½ to 5½ months) pregnant [emphasis added], except on women who are more than 20 pounds overweight, have twins, or have certain other complicating factors.

In 1993, after NRLC's publicizing of Dr. Haskell's paper engendered considerable controversy, the American Medical News—the official newspaper of the AMA—conducted a tape-recorded interview with Dr. Haskell concerning this specific abortion method, in which he said:

And I'll be quite frank: most of my abortions are elective in that 20-24 week range * * * In my particular case, probably 20% [of this procedure] are for genetic reasons. And the other 80% are purely elective.

In testimony in a lawsuit in 1995, Dr. Haskell testified that women come to him for partial-birth abortions with "a variety of conditions. Some medical, some not so medical" Among the "medical" examples he cited was "agoraphobia" (fear of open places).

Moreover, in testimony presented to the Senate Judiciary Committee on November 17, 1995, ob/gyn Dr. Nancy Romer of Dayton (the city in which Dr. Haskell operates one of his abortion clinics) testified that three of her own patients had gone to Haskell's clinic for abortions "well beyond" 4½ months into pregnancy, and that "none of these women had any medical illness, and all three had normal fetuses."

Brenda Pratt Shafer, a registered nurse who observed Dr. Haskell use the procedure to abort three babies in 1993, testified that one little boy had Down Syndrome, while the other two babies were completely normal and their mothers were healthy. [Nurse Shafer's testimony before the House Judiciary subcommittee, with associated documentation, is available on request to NRLC.]

Dr. James McMahon voluntarily submitted to the House Judiciary Constitution subcommittee a breakdown of a self-selected sample of 175 partial-birth abortions that he performed for what he called "maternal indications." Of these,the largest single category of "maternal indication"—39 cases, or 22% of the total sample—were for "depression." (Other "maternal indications" included "spousal drug exposure" and "substance abuse.") Dr. McMahon's self-selected sample of "fetal indications" cases showed he had performed nine of these procedures for "cleft plate." Even though this data is cited in the official report of the committee, when NARAL President Kate Michelman was asked at a November 7, 1995 press conference about "arguments . . . that these procedures . . . are given for depression or cleft palate," Ms. Michelman responded, "That is . . . not only a myth, it's a lie."

Dr. McMahon also wrote: After 26 weeks [six months], those pregnancies that are not flawed are still nonelective. They are interrupted because of maternal risk, rape, incest, psychiatric or pediatric indications. [Emphasis added.] ["Pediatric indications" was Dr. McMahon's terminology for young teenagers.]

Dr. Pamela E. Smith, director of Medical Education, Department of Obstetrics and Gynecology, Mt. Sinai Hospital, Chicago, gave the Senate Judiciary Committee her analysis of Dr. McMahon's sample of 175 cases in which he said he had used the procedure because of maternal health indications. Of this sample, 39 cases (22%) were for maternal "depression," while another 16% were "for conditions consistent with the birth of a normal child (e.g., sickle cell trait, prolapsed uterus, small pelvis)," Dr. Smith noted. She added that in one-third of the cases, the conditions listed as "maternal indications" by Dr. McMahon really indicated that the procedure itself would be seriously risky.

Reporter Karen Tumulty wrote an article about late-term abortions, based in large part on extensive interviews with Dr. McMahon and on direct observation of his practice, which appeared in the Los Angeles Times Magazine (January 7, 1990). She concluded: If there is any other single factor that inflates the number of late abortions, it is youth. Often, teen-agers do not recognize the first signs of pregnancy. Just as frequently, they put off telling anyone as long as they can.

Dr. George Tiller of Wichita, Kansas, specializes in late-term abortions, including third-trimester abortions. Dr. Tiller's spokeswoman, Peggy Jarman, told the Kansas City Star: About three-fourths of Tiller's late-term patients, Jarman said, are teenagers who have denied to themselves or their families they were pregnant until it was too late to hide it.

In 1993, the then-executive director of the National Abortion Federation (NAF) distributed an internal memorandum to the members of that organization which acknowledged that such abortions are performed for "many reasons": There are many reasons why women have late abortions: life endangerment, fetal indications, lack of money or health insurance, social-psychological crises, lack of knowledge about human reproduction, etc."

Likewise, a June 12, 1995, letter from NAF to members of the House of Representatives noted that late abortions are sought by, among others, "very young teenagers . . . who have not recognized the signs of their pregnancies until too late," and by "women in poverty, who have tried desperately to act responsibly and to end an unplanned pregnancy in the early stages, only to face insurmountable financial barriers."

It is true, of course, that some partial-birth abortions involve babies who have grave disorders that will result in death soon after birth. But these unfortunate members of the human family deserve compassion and the best comfort-care that medical science can offer—not a scissors in the back of the head. In some such situations there are good medical reasons to deliver such a child early, after which natural death will follow quickly.

IS A PARTIAL-BIRTH ABORTION EVER THE ONLY WAY TO PRESERVE A MOTHER'S PHYSICAL HEALTH?

Dr. Pamela E. Smith, Director of Medical Education, Department of Obstetrics and Gynecology, Mt. Sinai Hospital, Chicago, testified, "There are absolutely no obstetrical situations encountered in this country which require a partially delivered human fetus to be destroyed to preserve the life or health of the mother."

Dr. Harlan R. Giles, a professor of "high-risk" obstetrics and perinatology at the Medical College of Pennsylvania, performs abortions by a variety of procedures up until "viability." In sworn testimony in the U.S. Federal District Court for the Southern District of Ohio (Nov. 13, 1995), Prof. Giles said:

After 23 weeks I do not think there are any maternal conditions that I'm aware of that mandate ending the pregnancy that also require that the fetus be dead or that the fetal life be terminated. In my experience for 20

years, one can deliver these fetuses either vaginally, or by Caesarean section for that matter, depending on the choice of the parents with informed consent . . . But there's no reason these fetuses cannot be delivered intact vaginally after a miniature labor, if you will, and be at least assessed at birth and given the benefit of the doubt. [transcript, page 240]

Opponents of H.R. 1833 have publicized the cases of several women whose babies suffered from severe hydrocephalus (enlargement of the head). But an eminent authority on such matters, Dr. Watson A. Bowes, Jr., professor of ob/gyn (maternal and fetal medicine) at the University of North Carolina, who is co-editor of the Obstetrical and Gynecological Survey, wrote to Congressman Canady:

Critics of your bill who say that this legislation will prevent doctors from performing certain procedures which are standard of care, such as cephalocentesis (removal of fluid from the enlarged head of a fetus with the most severe form of hydrocephalus) are mistaken. In such a procedure a needle is inserted with ultrasound guidance through the mother's abdomen into the uterus and then into the enlarged ventricle of the brain (the space containing cerebrospinal fluid). Fluid is then withdrawn which results in reduction of the size in the head so that delivery can occur. This procedure is not intended to kill the fetus, and, in fact, is usually associated with the birth of a live infant.

IS THE BABY ALIVE WHEN SHE IS PULLED FEET-FIRST FROM THE WOMB?

Yes, in most cases the baby is alive until the end of the procedure. American Medical News reported in 1993, after conducting interviews with Drs. Haskell and McMahon, that the doctors "told AM News that the majority of fetuses aborted this way are alive until the end of the procedure." On July 11, 1995, American Medical News submitted the transcript of the tape-recorded interview with Haskell to the House Judiciary Committee. The transcript contains the following exchange:

American Medical News: Let's talk first about whether or not the fetus is dead beforehand.

Dr. Haskell: No it's not. No, it's really not. A percentage are for various numbers of reasons. Some just because of the stress—intrauterine stress during, you know, the two days that the cervix is being dilated [to permit extraction of the fetus]. Sometimes the membranes rupture and it takes a very small superficial infection to kill a fetus in utero when the membranes are broken. And so in my case, I would think probably about a third of those are definitely are [sic] dead before I actually start to remove the fetus. And probably the other two-thirds are not.

In an interview quoted in the Dec. 10, 1989 Dayton News, Dr. Haskell again conveyed that the scissors thrust is usually the lethal act: "When I do the instrumentation on the skull . . . it destroys the brain tissue sufficiently so that even if it (the Fetus) falls out at that point, it's definitely not alive," Dr. Haskell said.

DOES ANESTHESIA GIVEN TO THE MOTHER KILL THE BABY? DOES THE BABY FEEL PAIN DURING THE PROCEDURE?

In Dr. Haskell's 1992 instructional paper, he lists among the "advantages" of the procedure that "it is a quick, surgical outpatient method that can be performed on a scheduled basis under local anesthesia." [emphasis added] According to Prof. David H. Chestnut, editor of Obstetric Anesthesia: Principles and Practice, "Rational use of local anesthetic drugs does not affect the fetus." (Testimony to House Judiciary Constitution Subcommittee, March 21, 1996).

Dr. James McMahon utilized general anesthesia, at least in some cases, but anesthesiologists say that these drugs do not harm the fetus/baby unless given in amounts that would kill the mother or place her in grave danger. (See below.)

Nevertheless, many critics of the bill have insisted that the unborn babies are killed by anesthesia given to the mother, prior to being "extracted" from the womb. For example, syndicated columnist Ellen Goodman wrote in November that, based on her review of statements by supporters of the bill, "You wouldn't even know that anesthesia ends the life of such a fetus before it comes down the birth canal."

The Planned Parenthood Federation of America (PPFA) has been among the most persistent purveyors of this mythology. Another leading proponent of the "anesthesia myth" has been Kate Michelman, president of the National Abortion and Reproductive Rights Act League (NARAL). For example, in an interview on "Newsmakers," KMOX-AM in St. Louis on Nov. 2, 1995, Ms. Michelman explained that she thinks it is wrong to call the procedure a "partial birth" because (she claimed) the baby is already dead. Kate Michelman's verbatim statement follows:

The other side grossly distorted the procedure. There is no such thing as a 'partial birth'. That's, that's a term made up by people like these anti-choice folks that you had on the radio. The fetus— I mean, it is a termination of the fetal life, there's no question about that. And the fetus, is, before, the procedure begins, the anesthesia that they give the woman already causes the demise of the fetus. That is, it is not true that they're born partially. That is a gross distortion, and it's really a disservice to the public to say this.

However, the claim that anesthesia can kill an unborn fetus has been emphatically refuted in congressional testimony by the heads of the leading professional societies of anesthesiologists. These exports have criticized both pro-abortion leaders and certain journalists and commentators, for disseminating these bogus claims, while failing to publicize the authoritative statements of experts that these claims are entirely bogus.

In testimony before the Senate Judiciary Committee on November 17, 1995, Dr. Norig Ellison, president of the 34,000-member American Society of Anesthesiologists (ASA), said that such claims have "absolutely no basis in scientific fact." On behalf of the ASA, Dr. Ellison testified that regional anesthesia (used in many partial-birth abortions and most normal deliveries) has virtually no effect on the fetus. General anesthesia has some sedating effect on the fetus, but much less than on the mother; even pain relief for the fetus is doubtful, and certainly anesthesia would not kill the baby, Dr. Ellison testified. (In March 1996, Dr. Ellison said that his testimony had been reported in the medical press and that not one anesthesiologist had contacted ASA to express any disagreement.)

In testimony before the House Judiciary Constitution Subcommittee on March 21, 1996, Dr. David J. Birnbach, president-elect of the Society for Obstetric Anesthesia and Perinatology, testified, "I have never witnessed a case of fetal demise that could be attributed to an anesthetic. . . . In order to cause fetal demise, it would be necessary to give the mother dangerous and life-threatening doses of anesthesia."

Recently, the Planned Parenthood Federation of America (PPFA) and NARAL have tried to "explain" that they were really just referring to the practice of the late Dr. James McMahon—who, they claimed, used massive doses of narcotic anesthesia. But Dr. Birnbach said, "Although there is no evidence that this massive dose will cause fetal demise, there is clear evidence that this excessive dose could cause maternal death."

Brenda Pratt Shafer, a registered nurse from Dayton, Ohio, stood at Haskell's side while he performed three partial-birth abortions in 1993. In testimony before the Senate Judiciary Committee (Nov. 17), Shafer described in detail the first of the three procedures—which involved, she said, a baby boy at 26½ weeks (over 6 months). According to Mrs. Shafer, the abortionist delivered the baby's body and the arms—everything but the head. The doctor kept the baby's head just inside the uterus. The baby's little fingers were clasping and unclasping, and his feet were kicking. Then the doctor stuck the scissors through the back of his head, and the baby's arms jerked out in a flinch, a startle reaction, like a baby does when he thinks that he might fall. The doctor opened up the scissors, stuck a high-powered suction tube into the opening and sucked the baby's brains out. Now the baby was completely limp.

Since the baby is usually not dead before being removed from the womb, does the baby experience pain? Yes, according to experts such as Professor Robert White, Director of the Division of Neurosurgery and Brain Research Laboratory at Case Western Reserve School of Medicine, who testified before the House Judiciary Constitution Subcommittee: "The fetus within this time frame of gestation, 20 weeks and beyond, is fully capable of experiencing pain." After analyzing the partial-birth procedure step-by-step for the subcommittee, Prof. White concluded: "Without question, all of this is a dreadfully painful experience for any infant subjected to such a surgical procedure."

Similar testimony was presented to the subcommittee on March 21, 1996, by Dr. Jean A. Wright, associate professor of pediatrics and anesthesia at the Emory University School of Medicine in Atlanta. Recent research shows that by the stage of development that a fetus could be a "candidate" for a partial-birth abortion (20 weeks), the fetus "is more sensitive to pain than a full-term infant would be if subjected to the same procedures," Prof. Wright testified. These fetuses have "the anatomical and functional processes responsible for the perception of pain," and have "a much higher density of Opioid (pain) receptors" than older humans, she said.

IS THERE A MORE "OBJECTIVE" TERM FOR THE PROCEDURE THAN "PARTIAL-BIRTH ABORTION"?

Congressman Charles Canady (R-FL), the author of H.R. 1833 and the chairman of the subcommittee that conducted hearings on the bill, said on March 23, "It it time for some in the media to stop editing or denigrating the legal terminology that has been adopted by the U.S. House and the U.S. Senate, which is partial-birth abortion."

(When Congress defined certain firefarms as "assault weapons," that terminology was readily accepted by most journalists and editors—even though manufacturers of such devices utilize other terms.)

Some opponents of the Partial-Birth Abortion Ban Act (H.R. 1833) insist that anyone writing about the bill should say that it bans a procedure "known medically as intact dilation and evacuation." But when journalists

comply with this demand, they do so at the expense of accuracy. The bill itself makes no reference whatever to "intact dilation and evacuation" abortions. More importantly, the term "intact dilation and evacuation" is not equivalent to the class of procedures banned by the bill.

The bill would make it a criminal offense (except to save a woman's life) to perform a "partial-birth abortion," which the bill would define—as a matter of law—as "an abortion in which the person performing the abortion partially vaginally delivers a *living* fetus before killing the fetus and completing the delivery." [emphasis added]

In contrast, the term "intact dilation and evacuation" was invented by the late Dr. James McMahon, and until recently, was idiosyncratic to him. It appears in no standard medical textbook or database, nor does it appear anywhere in the standard textbook on abortion methods, Abortion Practice by Dr. Warren Hern.

Because "intact dilation and evacuation" is not a standard, clearly defined medical term, the House Judiciary Constitution Subcommittee staff (which drafted the bill under Congressman Canady's supervision) rejected it as useless for purposes of defining a criminal offense. Indeed, it is worse than useless—a criminal statute that relied on such a term would be stricken by the federal courts as "void for vagueness."

Although there is no clear definition of the term, we know enough to say that it is inaccurate to equate "intact dilation and evacuation" abortions with the procedures banned by HR 1833, since in his writings Dr. McMahon clearly used the term so broadly as to cover certain procedures which would not be affected at all by HR 1833 (e.g., removal of babies who are killed entirely in utero, and removal of babies who have died entirely natural deaths in utero). Indeed, some of the specific women highlighted by opponents of HR 1833 had various types of "intact D&E" abortion procedures that were not covered by HR 1833's definition of "partial-birth abortion."

The term chosen by Congress is in no sense misleading. In sworn testimony in an Ohio lawsuit on Nov. 8, 1995, Dr. Martin Haskell—who has done over 1,000 partial-birth abortions, and who authored the instructional paper that touched off the controversy over the procedure—explained that he first learned of the method when a colleague described very briefly over the phone to me a technique that I later learned came from Dr. McMahon where they internally grab the fetus and rotate it and accomplish—be somewhat equivalent to a breach type of delivery.

In short, it is a misguided notion of objectivity for the any journalist to denigrate the term for a criminal offense that has been adopted and explicitly defined by the U.S. House and the U.S. Senate, in favor of a undefined term recently manufactured by the very special-interest that would be "regulated" by the legislation.

[In his 1992 instructional paper, Dr. Haskell referred to the method as "dilation and extraction" or "D&X"—noting that he "coined the term." The term "dilation and extraction" does not appear in medical dictionaries or databases.]

ARE THE FIVE LINE DRAWINGS OF THE PROCEDURE CIRCULATED BY NRLC ACCURATE, OR ARE THEY MISLEADING?

American Medical News (July 5, 1993) interviewed Dr. Martin Haskell and reported: Dr. Haskell said the drawings were accurate "from a technical point of view." But he took issue with the implication that the fetuses were "aware and resisting."

Moreover, at a June 15, 1995, public hearing before the House Judiciary Subcommittee on the Constitution, Dr. J. Courtland Robinson, a self-described "abortionist" who testified on behalf of the National Abortion Federation, was questioned about the drawings by Congressman Charles Canady (R-Fl.). Mr. Canady directed Dr. Robinson's attention to the drawings, which were displayed in poster size next to the witness table, and asked Dr. Robinson if they were "technically correct." Dr. Robinson responded:

That is exactly probably what is occurring in the hands of the two physicians involved. [Hearing record, page 89.]

Professor Watson Bowes of the University of North Carolina at Chapel Hill, co-editor of the Obstetrical and Gynecological Survey, wrote in a letter to Congressman Canady:

Having read Dr. Haskell's paper, I can assure you that these drawings accurately represent the procedure described therein. . . . Firsthand renditions by a professional medical illustrator, or photographs or a video recording of the procedure would no doubt be more vivid but not necessarily more instructive for a non-medical person who is trying to understand how the procedure is performed.

On Nov. 1, 1995, Congresswoman Patricia Schroeder and her allies actually tried to prevent Congressman Canady from displaying the line drawings during the debate on HR 1833 on the floor of the House of Representatives. But the House voted by nearly a 4-to-1 margin (332 to 86) to permit the drawings to be used.

DOES THE BILL CONTRADICT U.S. SUPREME COURT DECISIONS?

The Supreme Court has never said that there is a constitutional right to kill human beings who are mostly born.

In its official report on HR 1833, the House Judiciary Committee makes the very plausible argument that HR 1833 could be upheld by the Supreme Court without disturbing Roe. In Roe, the Supreme Court said that "the word 'person,' as used in the Fourteenth Amendment, does not include the unborn." Thus, under the Supreme Court's doctrine, a human being becomes a legal "person" upon emerging from the uterus.

But a partial-birth abortion does not involve an "unborn fetus." A partial-birth abortion, by the very definition in the bill, kills a human being who is partly born. Indeed, a partial-birth abortion kills a human being who is four-fifths across the 'line-of-personhood' established by the Supreme Court.

Moreover, in Roe v. Wade itself, the Supreme Court took note of a Texas law that made it a felony to kill a baby "in a state of being born and before actual birth," and the Court did not disturb that law.

Thus, the Supreme Court could very well decide that the killing of a mostly born baby, even if done by a physician, is not protected by Roe v. Wade.

SHOULD CONGRESS EVER BAN SPECIFIC "SURGICAL PROCEDURES"?

Some prominent congressional opponents of the bill to ban partial-birth abortions, including Rep. Schroeder (D-Co.), argue that Congress should not attempt to ban a specific surgical procedure. But Rep. Schroeder is the prime sponsor of HR 941, the "Federal Prohibition of Female Genital Mutilation Act." (The Senate companion bill is S. 1030.) This bill generally would ban anyone (including a licensed physician) from performing the procedure known medically as "infibulation," or "female circumcision." (Some physicians perform the procedure in response to requests from immigrants from certain countries, based on the rationale that those involved otherwise will probably obtain the procedure from persons without medical training.) The bill provides a penalty of up to five years in federal prison. Supporters of this bill argue, persuasively, that subjecting a little girl to infibulation is a form of child abuse. But then, so too is subjecting a baby to the partial-birth abortion procedure.

Mr. WELDON of Florida. Mr. Speaker, I submit the following material for inclusion in the RECORD:

MOUNT SINAI HOSPITAL
MEDICAL CENTER
Chicago, IL, October 28, 1995.

Hon. CHARLES CANADY,
Chairman, Subcommittee on the Constitution, House Committee on the Judiciary, Longworth House Office Building, Washington, DC

DEAR CONGRESSMAN CANADY: It has recently been brought to my attention that opponents of HR 1833 have stated that this particular abortion technique should maintain its legality because it is sometimes employed by physicians in the interest of maternal health. Such an assertion not only runs contrary to facts but ignores the reality of the risks to maternal health that are associated with this procedure which include the following:

1. Since the procedures entails 3 days of forceful dilatation of the cervix the mother could develop cervical incompetence in subsequent pregnancies resulting in spontaneous second trimester pregnancy losses and necessitating the placement of a cerclage (stitch around the cervix) to enable her to carry a fetus to term.

2. Uterine rupture is a well known complication associated with this procedure. In fact, partial birth abortion is a "variant" of internal podalic version . . . a technique sometimes used by obstetricians in this country with the intent of delivering a live child. However, internal podalic version, in this country, has been gradually replaced by Cesarean section in the interest of maternal as well as fetal well being (see excerpts from the standard text Williams Obstetrics pages 520, 521, 865 and 866).

Furthermore, obstetrical emergencies (such as entrapment of the head of a hydrocephalic fetus or of a footling breech that has partially delivered on its own) are never handled by employing this abortion technique. Cephalocentesis, (drainage of fluid from the head of a hydrocephalic fetus) frequently results in the birth of a living child. Relaxing the uterus with anesthesia, cutting the cervix (Duhrssen's incision) and Cesarean section are the standard of care for a normal, head entrapped breech fetus.

There are absolutely no obstetrical situations encountered in this country which require a partially delivered human fetus to be destroyed to preserve the health of the mother. Partial birth abortion is a technique devised by abortionists for their own convenience . . . ignoring the known health risks to the mother. The health status of women in this country will thereby only be enhanced by the banning of this procedure.

Sincerely,

PAMELA E. SMITH, MD,
Director of Medical Education, Department of Obstetrics and Gynecology.

THE UNIVERSITY
NORTH CAROLINA,
Chapel Hill, July 11, 1995.

Hon. CHARLES CANADY,
Chairman, Subcommittee on the Constitution, House Committee on the Judiciary, Washington, DC.

DEAR CONGRESSMAN CANADY: I have reviewed the Partial-Birth Abortion Ban Act (HR 1833, S. 939) and the related materials that you submitted to me.

Your bill would ban the use of the "partial-birth abortion" method, which you define as "an abortion in which the person performing the abortion partially vaginally delivers a living fetus before killing the fetus and completing the delivery."

As regards the use of the term "partial-birth abortion" to describe the procedure: The term "partial-birth abortion" is accurate as applied to the procedure described by Dr. Martin Haskell in his 1992 paper entitled "Dilation and Extraction for Late Second Trimester Abortion," distributed by the National Abortion Federation.[1] Dr. Haskell himself refers to that procedure as dilation and extraction," but that is only a term, as he wrote, he "coined." Another practitioner, Dr. James McMahon, who uses a similar technique, uses the term "intact dilation and evacuation."[2]

There is no standard medical term for this period. The method, as described by Dr. Haskell in his paper, involves dilatation of the uterine cervix followed by breech delivery of the fetus up to the point at which only the head of the fetus remains undelivered. At this point surgical scissors are inserted into the brain through the base of the skull, after which a suction catheter is inserted to remove the brain of the fetus. This results in collapse of the fetal skull to facilitate delivery of the fetus. From this description there is nothing misleading about describing this procedure as a "partial-birth abortion," because in most of the cases the fetus is partially born while alive and then dies as a direct result of the procedure (brain aspiration) which allows completion of the birth.

As regards when fetal death occurs during this procedure: Although I have never witnessed this procedure, it seems likely from the description of the procedure by Dr. Haskell that many if not all of the fetuses involved in this procedure are alive until the scissors and the suction catheter are used to remove brain tissue.[1] Dr. Haskell, explicitly contrasts his procedure with two other late abortion methods that do induce fetal death prior to removal of the fetus (these alternative methods being intra-amniotic infusion of urea, and rupture of the membranes and severing of the umbilical cord).[1] Also, Doctor Haskell, in an interview with Diane Gianelli of American Medical News that the majority of the fetuses aborted this way are alive until the end of the procedure."[2] This is consistent with the observations of Brenda Shafer, R.N. who, in a letter to Congressman Tony Hall, described partial-birth abortions performed by Dr. Haskell which she observed.[3]

Moreover, in a document entitled "Testimony Before the House Subcommittee on the Constitution", June 23, 1995, Dr. James McMahon states that narcotic analgesic medications given to the mother induce "a medical coma" in the fetus, and he implies that this causes "a neurological fetal demise."[4] This statement suggests a lack of understanding of maternal/fetal pharmacology. It is a fact that the distribution of analgesic medications given to a pregnant woman result in blood levels of the drugs which are less than those in the mother. Having cared for pregnant women who for one reason or another required surgical procedures in the second trimester, I know that they were often heavily sedated or anesthetized for the procedures, and the fetuses did not die.

Dr. Dru Carlson, a maternal/fetal medicine specialist from Cedars-Sinai Medical Center in Los Angeles, writes that she has personally observed Dr. McMahon perform this procedure. In a letter to Congressman Henry Hyde she described the procedure and wrote that after the fetal body is delivered, it is removal of cerebrospinal fluid from the brain that causes instant brain herniation and death.[5] This statement clearly suggests that the fetus is alive until the suction device is inserted into the brain.

As regards whether the fetus experiences pain during this procedure: Dr. McMahon states that the fetus feels no pain through the entire series of procedures.[4] Although it is true that analgesic medications given to the mother will reach in the fetus and presumably provide some degree of pain relief, the extent to which this renders this procedure pain free would be very difficult to document. I have performed in-utero procedures on fetuses in the second trimester, and in these situations the response of the fetuses to painful stimuli, such as needle sticks, suggest that they are capable of experiencing pain. Further evidence that the fetus is capable of feeling fetal pain is the response of extremely preterm infants to painful stimuli.

As regards the accuracy of the illustrations of this procedure which have been distributed by the National Right to Life Committee: I have read the letters dated June 12, 1995 and June 27, 1995 sent to members of Congress by the National Abortion Federation, which state that the drawings of the partial-birth abortion procedure that have been distributed by you and by the National Right to Life Committee are "highly imaginative . . . with little relationship to the truth" and "misleading."[7]

Having read Dr. Haskell's paper[1], I can assure you that these drawings accurately represent the procedure described therein. Furthermore, Dr. Haskell is reported as saying that the illustrations were accurate "from a technical point of view."[2] First hand renditions by a professional medical illustrator, or photographs or a video recording of the procedure would no doubt be more vivid, but not necessarily more instructive for a non-medical person who is trying to understand how the procedure is performed.

As regards the impact of the banning of the procedure on other indicated standard medical procedures: Critics of your bill who say that this legislation will prevent doctors from performing certain procedures which are standard of care, such as cephalocentesis (removal of fluid from the enlarged head of a fetus with the most severe form of hydrocephalus) are mistaken. In such a procedure a needle is inserted with ultrasound guidance through the mother's abdomen into the uterus and then into the enlarged ventricle of the brain (the space containing cerebrospinal fluid).

Fluid is then withdrawn which results in reduction in the size of the head so that delivery can occur. This procedure is not intended to kill the fetus, and, in fact, is usually associated with the birth of a live infant. This is an important distinction between a needle cephalocentesis which is intended to facilitate the birth of a living fetus as contrasted with the procedure described by Doctors Haskell and McMahon, which is intended to kill a living fetus which has been partially delivered.

The technique of the partial-birth abortion could be used to remove the fetus that had died in utero of natural causes or accident. Such a procedure would not be covered by the definition in your bill, because it would not involve partially delivering a live fetus and then killing it.

As regards viability of preterm infants in the second trimester of pregnancy: I have reviewed a "fact sheet" distributed by the National Abortion and Reproductive Rights Action League (NARAL) in opposition to your legislation.[8] This document states, "Very few premature infants born at 24 weeks' gestation actually survive. The chance for survival at 25 weeks' gestation is 10–15%; one week later—at 26 weeks—the chances of survival double to 24–45%. A survival rate of 50% is achieved only in live births at 27 or more weeks gestation." These figures are outdated and misleading. In a recent study from the National Institute of Child Health and Human Development Neonatal Network, survival was documented in a large number of premature infants born at the seven participating institutions.[9] At 23 weeks gestation the neonatal survival was 23 percent and at 24 weeks' gestation survival was 34 percent. As you can see in Figure 3 in the enclosed article by Maureen Hack et al., there are wide inter-institutional variations in neonatal survival at east gestational age. For example, at 24 weeks' gestation neonatal survival varied from a low of 10 percent to a high of 57 percent. This data applies to infants born without major congenital defects.

I trust this information will be helpful.

Respectfully,

WATSON A. BOWES, Jr., M.D.
Professor.

FOOTNOTES

[1] Haskell M. Dilation and extraction for late second trimester abortion. Presented at the National Abortion Federation Risk Management Seminar, Dallas, Texas, September 13, 1992.

[2] Gianelli D.M. Shock-tactic ads target late-term abortion procedures. American Medical News, July 5, 1993, p 3 ff.

[3] Shafer B. Letter written to Congressman Tony Hall, July 9, 1995.

[4] McMahon JT. Written submission to the House Subcommittee on the Constitution, Washington, D.C., June 23, 1995.

[5] Carlson DE. Letter to the Honorable Henry Hyde, Chairman, House Judiciary Committee, June 27, 1995.

[6] Saporta V, Prohaska G. Letter to Members of Congress, U.S. House of Representatives, June 12, 1995.

[7] Saporta V. Letter to Members of Congress, U.S. House of Representatives, June 27, 1995.

[8] National Abortion and Reproductive Rights Action League. Third-Trimester Abortion: The Myth of "Abortion on Demand". (Date not listed)

[9] Hack M, Hobar JD, Malloy MH, et al. Very low birth weight outcomes of the National Institute of Child Health and Human Development Neonatal Network. Pediatrics. 1991; 87:587–597.

Mr. ABERCROMBIE. Mr. Speaker, today I rise to discuss H.R. 1833, the Partial-Birth Abortion Ban Act. During the course of the debate, gory and graphic descriptions are going to be used to exaggerate and manipulate emotions to obscure the real issues. In fact, the title itself is misleading. This is not about abortion on demand, the issue is about women and their families facing a tragic situation. Women who chose to have a dilation and extraction or a dilatation and evacuation preformed late in their pregnancy, do so only as a last resort. These surgical procedures are

Footnotes follow at end of Article.

rarely ever utilized. Fewer than 500 a year are performed. These procedures are used in the case of desired pregnancies gone tragically wrong due to severe fetal anomaly or severe risk to the health or life of the mother.

I have read the personal testimony of Coreen Costello and Mary-Dorothy Line.These women and others like them wanted their child and were willing to have a child with disabilities. However, once they realized that the baby could not survive outside of the womb, they had to make a soul searching decision. This was a very difficult decision made by the women and their husbands, but because they chose to have a late term abortion procedure they saved their lives and preserved their ability to have more children. Without the surgical procedures H.R. 1833 outlaws, neither of these women would be pregnant today or even healthy.

Under H.R. 1833, Congress would intrude into the lives of Coreen Costello, Mary-Dorothy Line and other women by denying them surgical procedures which ensure their ability to conceive more children. H.R. 1833 says to American women: your health and fertility mean nothing to us.This bill flagrantly violates women's rights and demotes them to second class citizenry.

The Supreme Court ruled in the cases of *Roe* v. *Wade,* and *Planned Parenthood* v. *Casey* that if a woman's life or health is endangered, late term abortions can not be banned. Yet even as amended by the Senate, H.R. 1833 does not have a genuine life exception. Pregnancy does not qualify as a physical disorder, illness or injury. In addition, H.R. 1833 also does not provide an exception for when the mother's health is at serious risk. The language in H.R. 1833, under legal scrutiny, clearly violates the Supreme Court's rulings since it does not provide life or health exemptions. This bill prevents women from receiving the safest possible medical care in the rare instances when such care is called for in the most trying of personal circumstances and anguish.

The bill is an example of the impossibility of writing a law of general application for situations which clearly demand individualized professional judgement in consultation with the parties personnely effected. To interfere in such conditions is an affront to moral sensibility and it disregards the profound consequences both physicians and their patients must resolve.

Mr. POSHARD. Mr. Speaker, I rise today in strong support of the ban on partial birth abortions, and urge my colleagues to follow suit in passing this important legislation.

I sincerely believe this late-term abortion procedure goes beyond the usual scope of debate we in the House have heard on the issue of abortion. This ban is not only about respecting life, it's about using humane and ethical medical practices. In fact, a number of historically pro-choice Members of this body joined in supporting this ban when it first was conducted by the House because of the nature of the procedure.

As amended by the Senate, this bill continues to allow for such a procedure should the life of the mother be endangered by a physical disorder, illness, or injury. So let us not argue today about the health and well-being of our prospective mothers, because this bill protects those very rights. To include an exception for the health of a mother versus her life, does nothing more than allow this procedure to continue to be used as an elective form of abortion.

For this reason, the Partial Birth Abortion Ban Act deserves the support of every Member of Congress, regardless of your stance on the issue of abortion.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise in opposition to H.R. 1833. In 1973, and more recently in 1992, the Supreme Court held that a woman has a constitutional right to choose whether or not to have an abortion. H.R. 1833 is a direct attack on the principles established in both Roe versus Wade and Planned Parenthood versus Casey.

H.R. 1833 is a dangerous piece of legislation which would ban a range of late-term abortion procedures that are used when a woman's health or life is threatened or when a fetus is diagnosed with severe abnormalities incompatible with life. Because H.R. 1833 does not use medical terminology, it fails to clearly identify which abortion procedures it seeks to prohibit, and as a result could prohibit physicians from using a range of abortion techniques, including those safest for the woman.

H.R. 1833 is a direct challenge to Roe versus Wade (1973). This legislation would make it a crime to perform a particular abortion method utilized primarily after the 20th week of pregnancy. This legislation represents an unprecedented and unconstitutional attempt to ban abortion and interfere with physicians' ability to provide the best medical care for their patients.

If enacted, such a law would have a devastating effect on women who learn late in their pregnancies that they are carrying have severe, often fatal, anomalies.

Woman like Coreen Castello, a loyal Republican and former abortion protester whose baby had a lethal neurological disease; Mary-Dorothy Lines, a conservative Republican who discovered her baby had severe hydrocephalus; Claudia Ades, who had to terminate her pregnancy in the sixth month because her baby was riddled with fetal anomalies due to a fatal chromosomal disorder; Vicki Wison, who discovered at 36 weeks that her baby's brain was growing outside his head; Tammy Watts, whose baby had no eyes, and intestines developing outside the body; and Vikki Stella, who discovered at 34 weeks that her baby had nine severe anomalies that would lead to certain death. These are not elective procedures. These are the women who would be hurt by H.R. 1833—women and their families who face a terrible tragedy—the loss of a wanted pregnancy.

In Roe, the Supreme Court established that after viability, abortion may be banned by States as long as an exception is provided in cases in which the woman's life or health is at risk. H.R. 1833 provides no true exceptions for cases in which a banned procedure would be necessary to preserve a women's life or health.

The Dole amendment does not cover all cases where a woman's life is in danger. This narrow life exception applies only when a woman's life is threatened by a physical disorder, illness or injury and when no other medical procedure would suffice. By limiting the life exception in this way, the bill would omit the most direct threat to a woman's life in cases involving severe fetal anomalies—the pregnancy itself.

In fact, none of the women who submitted testimony during the Senate and House hearings on this bill would have qualified for the procedure under the Dole life exception. Instead, this bill would require physicians to use an alternative life-saving procedure, even if the alternative renders the woman infertile, or increases her risk of infection, shock or bleeding. Thus, the result of this provision is that women's lives would be jeopardized not saved.

This bill would create an unwarranted intrusion into the physician-patient relationship by preventing physicians from providing necessary medical care to their patients. Furthermore, it would impose a horrendous burden on families who are already facing a crushing personal situation.

Furthermore, the term "Partial birth abortion" is not found in any medical dictionaries, textbooks or coding manuals. It is a term made up by the author of H.R. 1833 to suggest that a living baby is partially delivered and then killed. The definition in H.R. 1833 is so vague as to be uninterpretable, yet chilling. Many OB/GYNs fear that this language could be interpreted to ban all abortions where the fetus remains intact. The supporters of this bill want to intimidate doctors into refusing to do abortions. Given the bill's vagueness, few doctors will risk going to jail in order to perform this procedure. As a result, women and their families will find it even more difficult, if not impossible, to find a doctor who will perform a late-term abortion, and women's lives will be put in even more jeopardy.

Late term abortions are not common; 95.5 percent of abortions take place before 15 weeks. Only a little more than one-half of 1 percent take place at or after 20 weeks. Fewer than 600 abortions per year are done in the third trimester and all are done for reasons of life or health of the mother, severe heart disease, kidney failure, or rapidly advancing cancer, and in the case of severe fetal abnormalities incompatible with the life—no eyes,no kidneys, a heart with one chamber instead of four or large amounts of brain tissue missing or positioned outside of the skull, which itself may be missing.

An abortion performed in the late second trimester or in the third trimester of pregnancy is extremely difficult for everyone involved. However, when serious fetal anomalies are discovered late in a pregnancy, or the mother develops a life-threatening medical condition that is inconsistent with the continuation of the pregnancy, abortion—however heart-wrenching—may be medically necessary.

In such cases, the intact dilation and extraction procedure [IDE]—which would be outlawed by this bill—may provide substantial medical benefits. It is safer in several respects than the alternatives, maintaining uterine integrity, and reducing blood loss and other potential complications. In addition, the procedure permits the performance of a careful autopsy and therefore a more accurate diagnosis of the fetal anomaly. Intact delivery allows geneticists, pathologists, and perinatalogists to

determine what exactly the fetus's problems were. As a result, these families, who are extremely desirous of having more children, can receive appropriate genetic counseling and more focused prenatal care and testing in future pregnancies. Often, in these cases, the knowledge that a woman can have another child in the future is the only thing that keeps families going in their time of tragedy.

Political concerns and religious beliefs should not be permitted to take precedence over the health and safety of patients. The determination of the medical need for, and effectiveness of, particular medical procedures must be left to the medical profession, to be reflected in the standard of care.

In passing H.R. 1833, this Congress would set an undesirable precedent which goes way beyond the scope of the abortion debate. Will we someday be standing here debating the validity of a triple bypass or hip replacement procedure? Aren't these dangerous and unpleasant procedures?

The legislative process is ill-suited to evaluate complex medical procedures whose importance may vary with a particular patient's case and with the state of scientific knowledge. The mothers and families who seek late term abortions are already severely distressed. They do not want an abortion—they want a child. Tammy Watts told us that she would have done anything to save her child. She said, "If I could have given my life for my child's I would have done it in a second."

Unfortunately, however, there was nothing she could do. For Tammy, and women like her, a late term abortion is not a choice it is a necessity. We must not compound the physical and emotional trauma facing these women by denying them the safest medical procedure available.

This bill unravels the fundamental constitutional rights that American women have to receive medical treatment that they and their doctors have determined are safest and medically best for them. By seeking to ban a safe and accepted medical technique, members of Congress are intruding directly into the practice of medicine and interfering with the ability of physicians and patients to determine the best course of treatment. The creation of felony penalties and Federal tort claims for the performance of a specific medical procedure would mark a dramatic and unprecedented expansion of congressional regulation of health care.

H.R. 1833 contains no exception for adverse health consequences and no true life exception. The Dole amendment is dangerously narrow and it would force doctors to forgo the safest choice for a woman whose life is at risk.

This bill is bad medicine, bad law, and bad policy. Women facing late term abortions due to risks to their lives, health or severe fetal abnormalities incompatible with life must be able to make this decision in consultation with their families, their physicians, and their God. Women do not need medical instruction from the Government. To criminalize a physician for using a procedure which he or she deems to be safest for the mother is tantamount to legislating malpractice. I urge my colleagues to defeat this dangerous legislation.

Mrs. SMITH of Washington. Mr. Speaker, this evening the House will be voting on the partial birth abortion ban legislation. As a nation, we have created a veil of silence when it comes to the reality of abortion procedures. It is easy to be pro-choice when one can claim ignorance about the ways and means of abortion: whether it is a saline abortion, dilation and extraction, or suction, just to name a few.

Tonight, we are talking about a particular procedure commonly referred to as the "partial birth abortion." The very use of the word "birth" should be a clue as to how this procedure is performed. By inducing a "breech" birth, and I would like to note that I was a "breech" baby, a doctor is able to deliver a baby feet first and while the child's head is still in the birth canal, insert surgical scissors into the base of the baby's skull and remove the brain tissue, thus collapsing the skull and then finishing the delivery of a now dead baby. We are tantalizing a young life as it enters the world, only to collapse its skull and end its life.

I used to be pro-choice, but I am confident that I would have changed my views years earlier had I been aware of the truly horrid nature of abortion. Had I known that this procedure was being performed, my decision to choose life would have been that much simpler. As a mother and grandmother, it is mind boggling to imagine having labor induced, to be giving birth, only to have the opportunity to be a mother stopped in midstream. One mother, Brenda Pratt Shafer, is a nurse who witnessed this procedure. In her own words, she has stated that she "had often expressed strong pro-choice views to my two teenage daughters." However, upon witnessing the partial delivery and death of a baby, she realized that it is easy to be pro-choice when one does not now what abortion is all about.

Some will say that this procedure is only used on children who would otherwise have serious birth defects or other abnormalities. The testimony of the doctors who have performed this procedure say otherwise. One such doctor, Martin Haskell of Ohio, has stated that 80 percent of abortions he has performed using this procedure were elective. Furthermore, as Americans, what is our life ethic if we continue down this slippery slope of wanting only the "perfect" child? I am fearful that as we increasingly hear terms like "gender selection" and the like, we will be banishing more innocent lives to a grisly death. As a mother, I know that there are no "perfect children." Health alone does not make the perfect child. If nothing else, the parents of a child whose life may only last a few hours or days or weeks have the opportunity to bond with their child and then say "goodbye."

Banning this procedure does not mean that other forms of abortion are acceptable. However, I challenge my colleagues in the House and Americans everywhere to justify the partial birth abortion. I ask my colleagues tonight to face the facts and accept this procedure for what it is. Many of us would like to turn the other way and have found ourselves angry that we are being "forced" to look at first hand the graphic nature of this act. I can only respond by saying that man's inhumanity to man is never pleasant. It is necessary to understand what we are up against.

I ask my colleagues in the House to accept the reality of the partially birth abortion and join with me in banning this procedure. It is just plan sick and does not reflect the values upon which this Nation was founded and still embraces to be true today.

Thank you and please join with me in supporting H.R. 1833, the Partial Birth Abortion Ban Act.

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I rise in opposition to this misguided and deceptive legislation before us known as H.R. 1833, the Partial Birth Abortion Ban Act. I believe this bill is both bad politics and bad policy.

Mr. Speaker, it is critical to protect women's health and preserve the ability of these women to have future healthy pregnancies. H.R. 1833 prevents women from receiving the safest medical care in the rare cases when a wanted pregnancy has gone tragically wrong. Women need access to the safest medical procedure. Under Roe versus Wade and later reaffirmed in Planned Parenthood versus Casey the Supreme Court explicitly declared that States can ban late term abortions, unless the woman's life or health is endangered, and in fact 41 States have already done so. As passed by the Senate, and earlier by the House, H.R. 1833 is a direct constitutional challenge to both Roe and Casey because it fails to provide a health exception.

Mr. Speaker, we must not be misled by the Senate's addition of language purporting to be a "life exception." As drafted, the "life exception" language is so narrowly crafted that a doctor would still risk criminal prosecution to perform this procedure. It is important to note that the Senate, by a narrow margin, rejected a true "life and adverse health" amendment that would have protected women who face life and health threatening pregnancies.

Mr. Speaker, since the House has considered this bill, public debate on the issue has shifted. The House acted to ban a specific abortion procedure and jail doctors after only brief debate and a prohibition on all amendments. When the far-reaching effects of this legislation were more fully debated both in the Senate and in the news media the bill passed the Senate by only a thin margin. The statements of the bill's proponents both in Congress and in anti-choice movements make it clear that H.R. 1833, far from being a moderate measure, is in fact the first step in an ambitious strategy to use the new congressional anti-choice majority to overturn Roe. I ask my colleagues to stop that from happening.

Mrs. VUCANOVICH. Mr. Speaker, as many of you know, I have 15 grandchildren. Two of my grandchildren, the miracle twins as I call them, were born prematurely at 7 months. They were so tiny that they could fit in your hands but they were perfectly formed little human beings and they are now 14 years old.

It makes me shudder to think that somewhere, perhaps even today, in this country that there are other little pre-born human beings 7 months old in their mothers womb that are going to be subject to this brutal, horrible procedure known as a partial birth abortion.

I am not the only one who finds this procedure horrifying. The American Medical Association's Legislative Council unanimously decided that this procedure was not "a recognized medical technique" and that "this procedure is basically repulsive". This is especially true when you realize that 80 percent of these types of abortion are done as a purely elective procedure. It is important to note that this bill does make exception for this type of abortion if it is necessary to save the life of the mother however, this is an exception that will have to be used rarely.

I think we can all agree that it is inhuman to begin the birthing process and nearly complete the delivery of the baby, only to suck the life out of the child.

I strongly urge my colleagues to support H.R. 1833, with the Senate amendments, which would ban this brutal procedure known as partial birth abortion.

Mr. ZELIFF. Mr. Speaker, I rise today in support of the conference report to H.R. 1833, the Partial Birth Abortion Ban Act, which will prohibit the use of a single medical procedure in the performance of abortions. I do believe that this particular procedure is unnecessary and a particularly cruel method of ending a late-term abortion. I believe that saying no to one procedure (with exemptions for life-threatening situations) in this case is appropriate, and does not affect the reproductive rights of women with regard to the *Roe* v. *Wade* decision, which I support. Enactment of this legislation will not in itself have significant impact on those Constitutionally-guaranteed rights.

But let me be clear, Mr. Speaker, that I will not support a strategy in this body to slowly dismantle reproductive rights under *Roe* v. *Wade* piece by piece, and I will oppose further measures that are part of such a strategy. Having an abortion is a right as guaranteed under the Constitution and upheld by the Supreme Court. To embark on a congressional strategy aimed at slowly striking down that right is not only wrong-headed, it is backhanded. The American people support the right to choose and that fact would make any effort in this House to further restrict the right to choose an effort without the support of the American public.

In sum, Mr. Speaker, while I support this legislation today I will not continue to support an effort by anti-choice forces to slowly dismantle the constitutional rights of women in the country.

Mr. STOCKMAN. Mr. Speaker, I rise in support of the motion and ask you insert this information into the RECORD.

"FETAL DEATH" OR DANGEROUS DECEPTION? THE EFFECTS OF ANESTHESIA DURING A PARTIAL-BIRTH ABORTION

The claim that anesthesia given to a pregnant woman kills her fetus/baby before a partial-birth abortion is performed has "absolutely no basis in scientific fact," according to Dr. Norig Ellison, the president of the American Society of Anesthesiologists. It is "crazy," says Dr. David Birnbach, the president-elect of the Society for Obstetric Anesthesia and Perinatology.

Despite such authoritative statements, this medical misinformation is still being disseminated. Here are a few examples:

ABORTION ADVOCATES

KATE MICHELMAN OF THE NATIONAL ABORTION RIGHTS ACTION LEAGUE (NARAL)

One of the leading proponents of the "anesthesia myth' is Kate Michelman, president of the National Abortion Rights Action League (NARAL). For example, in an interview on "Newsmakers," KMOX-AM in St. Louis on Nov. 2, 1995, Ms. Michelman said:

The other side grossly distorted the procedure. There is no such thing as a 'partial-birth'. That's that's a term made up by people like these anti-choice folks that you had on the radio. The fetus—I mean, it is a termination of the fetal life, there's no question about that. And the fetus, is, before the procedure begins, the anesthesia that they give the women already causes the demise of the fetus. That is, it is not true that they're born partially. That is a gross distortion, and it's really a disservice to the public to say this.

DR. MARY CAMPBELL OF PLANNED PARENTHOOD

Prior to the November 1, 1995, House vote on the bill, Planned Parenthood circulated to lawmakers a "fact sheet" titled, "H.R. 1833, Medical Questions and Answers," which includes this statement:

"Q: When does the fetus die?

"A: The fetus dies of an overdose of anesthesia given to the mother intravenously. A dose is calculated for the mother's weight which is 50 to 100 times the weight of the fetus. The mother gets the anesthesia for each insertion of the dilators, twice a day. This induces brain death in a fetus in a matter of minutes. Fetal demise therefore occurs at the beginning of the procedure while the fetus is still in the womb."

THE PRESS

THE NEW YORK DAILY NEWS

The fetus is partially removed from the womb, its head collapsed and brain suctioned out so it will fit through the birth canal. The anesthesia given to the woman kills the fetus before the full procedure takes place. But you won't hear that from the anti-abortion extreme. It would have everybody believe the fetus is dragged alive from the womb of a woman just weeks away from birth. Not true. (Editorial, Dec. 15, 1995)

USA TODAY

"The fetus dies from an overdose of anesthesia given to its mother."

THE ST. LOUIS POST-DISPATCH

"The fetus usually dies from the anesthesia administered to the mother before the procedure begins." (News story, Nov. 3, 1995)

SYNDICATED COLUMNIST ELLEN GOODMAN

Syndicated columnist Ellen Goodman wrote in mid-November that, if one relied on statements by supporters of the bill, "You wouldn't even know that anesthesia ends the life of such a fetus before it comes down the birth canal."

THE TRUTH

"Medical experts contend the claim is scientifically unsound and irresponsible, unnecessarily worrying pregnant women who need anesthesia." (American Medical News, January 1, 1996)

"[A]nesthesia does not kill an infant if you don't kill the mother." (Dr. David Birnbach quoted in American Medical News, January 1, 1996)

"I am deeply concerned, moreover, that widespread publicity . . . may cause pregnant women to delay necessary and perhaps life-saving medical procedures, totally unrelated to the birthing process, due to misinformation regarding the effect of anesthetics on the fetus." (Dr. Norig Elisson, Nov. 17, 1995, testimony before Senate Judiciary Committee)

"Drugs administered to the mother, either local anesthesia administered in the paracervical area or sedatives/analgesics administered intramuscularly or intravenously, will provide no-to-little analgesia [relief from pain] to the fetus." (Dr. Norig Ellison, November 22, 1995, letter to Senate Judiciary Committee)

STATEMENT OF NORIG ELLISON, M.D., PRESIDENT, AMERICAN SOCIETY OF ANESTHESIOLOGISTS

Chairman CANADY, members of the Subcommittee. My name is Norig Ellison, M.D., I am the President of the American Society of Anesthesiologists [ASA], a national professional society consisting of over 34,000 anesthesiologists and other scientists engaged or specially interested in the medical practice of anesthesiology. I am also Professor and Vice-Chair of the Department of Anesthesiology at the University of Pennsylvania School of Medicine in Philadelphia and a staff anesthesiologists at the Hospital of the University of Pennsylvania.

I appear here today for one purpose, and one purpose only; to take issue with the testimony of James T. McMahon, M.D., before this Subcommittee last June. According to his written testimony, of which I have a copy, Dr. McMahon stated that anesthesia given to the mother as part of dilation and extraction abortion procedure eliminates any pain to the fetus and that a medical coma is induced in the fetus, causing a "neurological fetal demise", or—in lay terms—"brain death".

I believe this statement to be entirely inaccurate. I am deeply concerned, moreover, that the widespread publicity given to Dr. McMahon's testimony may cause pregnant women to delay necessary, even lifesaving, medical procedures, totally unrelated to the birthing process, due to misinformation regarding the effect of anesthetics on the fetus. Annually over 50,000 pregnant women are anesthetized for such necessary procedures.

Although it is certainly true that some general analgesic medications given to the mother will reach the fetus and perhaps provide some pain relief, it is equally true that pregnant women are routinely heavily sedated during the second or third trimester for the performance of a variety of necessary surgical procedures with absolutely no adverse effect on the fetus, let alone death or "brain death". In my medical judgment, it would be necssary—in order to achieve "neurological demise" of the fetus in a "partial birth" abortion—to anesthetize the mother to such a degree as to place her own health in serious jeopardy.

As you are aware, Mr. Chairman, I gave the same testimony to a Senate committee 4 months ago. That testimony received wide circulation in anesthesiology circles and to a lesser extent in the lay press. You may be interested in the fact that since my appearance, not one single anesthesiologist or other physician has contacted me to dispute my stated conclusions. Indeed, two eminent obstetric anesthesiologists appear with me today, testifying on their own behalf and not as ASA representatives. I am pleased to note that their testimony reaches the same conclusions that I have expressed.

Thank you for your attention. I am happy to respond to your questions.

Mr. GEJDENSON. Mr. Speaker, today I rise to express my opposition to H.R. 1833, the so-

called "Partial-Birth" Abortion bill. I voted against this measure last year when it was first considered by the House and I will do so again today because I do not believe that Congress is the proper authority to decide the appropriateness of a particular medical procedure. This decision should be made by a woman, her family and her physician.

Further, in addition to being the first step in an all-out assault on a woman's right to choose, this bill is also unconstitutional since it fails to make an exception for the life and health of the mother as required by Roe v. Wade. For that reason, President Clinton has indicated that he will veto this measure.

Proponents of H.R. 1833 would like the public to believe that the women who have third trimester abortions do so because after 6 months of pregnancy, they suddenly decide that they do not want a baby. This could not be further from the truth. The women I have heard speak about their experiences—Mary-Dorothy Line, Tammy Watts, Coreen Costello—all desperately wanted their babies, but severe fetal abnormalities left no chance of the child surviving outside of the womb. Nevertheless, they have all insisted that while their decision to have this procedure was a painful one, it was their decision, not one forced upon them by the Federal Government.

With this in mind, it is ironic that while the Republican majority in Congress has spent much of the past year denouncing Government intervention in an individual's private life, they are intent on passing this bill which is the ultimate imposition of Government on a woman's health care choices.

Mr. FAZIO of California. Mr. Speaker, I oppose this rule and the underlying bill, H.R. 1833, because it is cruel and unnecessary Government intrusion into one of the most private and painful decisions a woman could ever face in her life.

When this bill came before the House last fall, and again today, we have a rule that does not offer an opportunity to vote on a true exception to protect the life and health of the woman.

Mr. Speaker, speakers on both sides of this issue have noted accurately that this procedure is rarely used. It is rarely used because the only reason women seek abortions late in pregnancy is because they face the terrible tragedy of a life-threatening or serious health-threatening situation, or when they discover that a very-much-wanted child simply will not survive after birth. When they face this tragedy, this is one of very few, and sometimes is the only procedure that can be used, to protect their ability to become pregnant again.

Testimony from women who have had this procedure is moving and undeniable. They are women who wanted their children and are devastated when they find that something has gone terribly wrong with their own health or that of the fetus.

I submit for the record the stories of two women who both desperately wanted their children, but instead needed this procedure when tragedy struck.

Mr. Speaker, we may never know the sorrow women like these two have faced. And we certainly can't presume to give them the best medical advice or emotional support they need. I urge the defeat of this rule and this bill.

TESTIMONY OF COREEN COSTELLO

My name is Coreen Costello. I live in Agoura, California, with my husband Jim and our son Chad and daughter Carlyn. Jim is a chiropractor and I live being a full-time, stay-at-home wife and mom. I am a registered Republican, and very conservative. I don't believe in abortion. Because of my deeply held Christian beliefs, I knew that I would never have an abortion. In fact, I remember a few years ago when I was nursing my son Chad, I watched a speech Congressman Hyde gave on C-SPAN against abortion. It was so eloquent, it moved me to tears. I even participated in the "Walk for Life" sponsored by our local Christian radio station.

Even now, I amazed at the fact that I am here. I never would have believed that I would be testifying in Congress, supporting an abortion procedure.

In March of last year, we were joyfully expecting the arrival of our third child. Then on March 24, almost a year ago to the day, when I was seven months pregnant, I began having premature contractions and my husband and I rushed to the hospital.

During an ultrasound, the physician became very silent. Soon more physicians came in. Jim told me everything would be fine but I knew there was something very wrong. I went into the bathroom and sobbed. I begged God to let my baby be okay. I prayed like I've never prayed before in my life.

My husband reassured me that we could deal with whatever was wrong. We had talked abut raising a child with disabilities and there was never a question that we would take whatever God gave us.

My doctor arrived at two in the morning. He held my hand, and informed me that they did not expect our baby to live. She was unable to absorb the amniotic fluid and it was puddling into my uterus. The poor precious child had a lethal neurological disorder and had been unable to move for almost two months. The movements I had been feeling over the last few months had been nothing more than bubbles and fluid. Her chest cavity was unable to rise and fall to stretch her lungs to prepare them for air. It was as if she had no lungs at all. Her vital organs were atrophying. Our darling little girl was going to die.

A perinatologist recommended terminating the pregnancy. For my husband and me, this was not an option. We chose to wait to go into labor naturally. We knew that it would not be long. Due to the excess amniotic fluid, a condition called polyhydramnios, premature labor was imminent. I wanted her to come on God's time—I didn't want to interfere.

It was so difficult to go home and be pregnant and go on with life, knowing my baby was dying. I wanted to stay in bed. My husband looked at me and said, "Coreen, this baby is still with us. Let's be proud of her. Let's make these last days of her life as special as possible." I got out of bed and put on my best maternity clothes, and went out with my daughter Carlyn to get ready for her fifth birthday party. I could feel my baby's life inside of me, and somehow I still glowed.

At this time we chose her name—Katherine Grace. "Katherine" meaning pure, and "Grace" representing God's mercy.

We went to many more experts over the next two weeks. It was discovered that Katherine's body was rigid and she was wedged in a transverse position. Most babies are in the fetal position, but Katherine's position was exactly the opposite. It was as if she were doing a swan dive—the soles of her feet were touching the back of her head. Her body was in a U-shape. Due to swelling, her head was already larger than that of a full-term baby. I did exercises every day, trying to change Katherine's position so that she could be delivered naturally. The amniotic fluid continued to puddle into my uterus.

No one expected her to survive labor, but if she had survived a natural birth or a C-section, we knew she would have suffocated immediately after the umbilical cord was cut. She had no lungs. She couldn't take even one breath. More and more ultrasounds made that terrible truth clearer and clearer, that if she were born, her passing would not be peaceful or painless. But we kept praying for a miracle, hoping that she would be able to pass away with our arms wrapped tightly around her, hearing us telling her how much we loved her.

We went back to the hospital again and again, thinking I was in labor. We were completely prepared to bring her into the world, with the hope of having her with us even just for a moment. This was my mission. But it was not to be. We decided to baptize her in utero, while we knew she was still alive.

By this time, I'd seen my own obstetrician, two resident obstetricians at Cedars-Sinai, and four perinatologies. Each of these doctors had consulted with other experts. The doctors all agreed that our safest option was an intact D&E, but Jim and I couldn't face the horrible thought of having an abortion.

Finally, after two and a half weeks, I went to my own doctor again for another ultrasound. The polyhydramnios had grown even worse and my husband and her whole family were afraid for my health. I could not sit or lie down for more than ten minutes because the pressure on my lungs was so great. But I wasn't worried about myself—I only thought of Katherine.

When Dr. Crane, performed the ultrasound, Katherine's heart was barely beating. My doctor turned to my husband and said, "I can't deliver this baby. I could try, but I'm convinced we would end up doing a caesarean and under the circumstances, that is just too dangerous." He said, "I have to send you to Dr. McMahon."

I gasped out loud. Dr. Crane said to Jim, "This is about Coreen now," I began to cry. Again I said, "What about a caesarean?" Dr. Crane said, "I can't justify that risk to you. There is a safer way." When I saw the anguish on my doctor's face, I knew that we had no other choice. Dr. Crane supported us so much in our decision to have Katherine naturally, and he knew that we would have to live with our decision for the rest of our lives. When I saw the pain on his face, I knew I had to go. This wasn't a choice anymore. It wasn't up to us. There was no reason to risk leaving my children motherless if there was no hope of saving Katherine.

We drove to Los Angeles. I cried the whole way, patting my tummy and promising Katherine we would never let anyone hurt or devalue her. On the way, Jim was adamant that if we weren't comfortable, we would turn around and leave no matter what. There was no way he would let his little girl's life end in a way that didn't give her respect and dignity. I'd never felt so scared and sick to my stomach in my life. I kept asking God, "Why are you making this so difficult for us?"

We expected a cold gray building . . . we expected an abortion mill. We expected people who cared about me, but not about Katherine. When we arrived, the place was beautiful and peaceful. But when we walked in, I

was still very defensive. I didn't trust these people.

The staff greeted us with such warmth and kindness. I was immediately taken in to see Gale McMahon, the clinic's head nurse. We started to talk, and Gale asked if we had named our baby. "Her name is Katherine Grace," I said and began to cry. When I looked up, she too had tears in her eyes. At that moment a little bit of my wall broke down.

Gale explained the procedure in detail. My husband asked a lot of questions. I was numb—I just kept thinking about Katherine. We then went in to see Dr. McMahon. As he met with us, he performed another ultrasound. I can't tell you the compassion he had for us. He knew how much discomfort I was in from the polyhydramnios and the size of my uterus, and how much we were both suffering at losing our little girl. He was so gentle and kind.

Dr. McMahon immediately asked me the same question Gale had: "Have you named her?" He never referred to her as fetal tissue, or a fetus, or even just a baby. She was always Katherine.

He told us that my condition meant that we had to do this procedure right away. My uterus was far too full of fluid to wait. We asked if there was any way that Katherine could be born alive. He looked carefully at the ultrasound, measured her head and explained sadly how large it was, and said that there was no way it could fit through my cervix without draining some of the fluid. He also explained that due to the difficulty of the position she was in, they would have to go inside my womb and for that, I would be put under heavy anesthesia. With her heartbeat as irregular and slow as it was already, he did not think she would survive the anesthesia.

It was so hard to accept, but we began to understand that it was what we had to do. After Dr. McMahon explained the procedure to us again, I felt comforted. He and his staff understood the pain and anguish we were feeling. I realized I was in the right place. This was the safest way for me to deliver. This left open the possibility of more children. It greatly lowered the health risk to me. Most important, it offered a peaceful, painless passing for Katherine Grace.

For many women, this procedure takes longer, but I went into labor very quickly after Dr. McMahon put in the first set of dilators. When I came back the next morning, my cervix was already dilated sufficiently, and it was time to begin the surgery. I was put under anesthesia.

When I awoke a few hours later, Katherine was brought in to us. Gale gave her to me and said, "She's beautiful." Gale helped me to bond with her. She really was beautiful. She was not missing part of her brain. She had not been stabbed in the head with scissors. She looked peaceful. My husband and I held her tight and sobbed.

One of the things I noticed when I was holding Katherine was that the socks we bought for her were too big. Someone had taken tiny, soft pink ribbons, and tied them gently at the ankles so that her socks would fit. I can't tell you the peace that brought me. I knew they were taking care of her just as we would. We stayed with her for hours, praying and singing lullabies. Giving her back was the hardest moment of my life.

Dr. McMahon and his staff helped us get through the dark days to come. They counseled us and gave us information on help for dealing with our grief—not just for Jim and me, but for our children, so they could get through the grief of losing their sister, and for our parents, so they could cope with their grief at losing their granddaughter.

When I went back for my checkup, Dr. McMahon was so pleased that I was recovering well physically. But he was worried about how I was doing emotionally, and we talked a lot about how I felt. My arms were physically aching, and he told me I wasn't alone, that so many women feel that way. Your arms ache to hold your baby. And then he told me something I've never forgotten. He said, "People don't want to know that this happens. They don't want to know that there are babies born with their brains outside their skulls, that there are babies for whom life is not gift but only cruelty and pain and death. They don't want to know what families like yours have to suffer." I didn't realize just how true that was until I came here.

I know how many of you feel about abortion, because that's how I felt. I still am against abortion. Before this happened to me, I had a friend who had something terrible like this happen in a pregnancy she'd wanted very much. I tried to be empathetic and I never said anything to her that was not kind, but in my heart there was a part of me that judged here. I knew that I would never make that decision. I don't judge anymore.

When I lost Katherine. I was devastated. For some reason God chose not to give her the gift of life. But losing her taught me how precious that gift of life is. I have my health, I have the ability to walk, to run, to enjoy life with my husband and my wonderful children. That is the gift that Dr. McMahon's procedure gave me and I am grateful for that every day of my life.

Because of the safety of this procedure, I am now pregnant again and will have another baby in June. Thanks to the grace of God and the skill and compassion of Dr. McMahon, I can have another healthy baby. If you outlaw this surgical procedure, other women like me will be denied that gift, that joy. They may lose their ability to have more children; they may lose their health; they may lose their lives. The child that I carry today is by no means a replacement for Katherine. There will always be a hole in our hearts where she should be, but this baby is a sign that life goes on and that God is good.

Someday, we'll tell our little boy or girl this story. We'll talk about Katherine, and how she changed our lives—and how, in a way, she went to Washington. We'll talk about how, even though her life ended before it could really begin, the way she left this world allowed us to have this new miracle. We pray that this story has a happy ending. We pray to be able to tell Chad, Carlyn and their little brother or sister that when Congress heard, really heard, the truth about the surgery that helped their Mom, the members of Congress realized that they had no business doing what they were trying to do. They knew that they could never understand. We didn't understand before. Now we do. I pray that you will understand as well and put a stop to this terrible bill. When you vote on this bill again, please remember me. remember my face, remember my name, remember my family and the child I am carrying.

TESTIMONY OF MARY-DOROTHY LINE

My name is Mary-Dorothy Line. I am here today to oppose H.R. 1833. This legislation would outlaw a compassionate medical procedure that helped me and my family through the most difficult situation in our lives. I have come to Washington to oppose this legislation to ensure that it is available to other women and families in the future.

I am a registered Republican and a practicing Catholic. My husband, Bill, is a consulting engineer. We live in Los Angeles, California. Bill and I got married while in college. We had been married almost 14 years before we decided to start our family. Since having children was not a decision we took lightly, we waited until we were financially, emotionally, and spiritually prepared. In April of 1995 when we found out I was pregnant, we were thrilled. We waited to tell my father and our other family members until Father's Day—an extra special Father's Day present.

The first four months proceeded normally. Dr. Pamela Lui, an OB/GYN at Northwestern University Hospital in Chicago was my doctor and I followed her instructions exactly. I read everything I could about pregnancy and parenting. We debated having an amniocentesis, but Dr. Lui said that it was not necessary due to my age (under 35) and no family history of genetic disorders. But she did recommend an alpha-fetoprotein (AFP) test which is routinely performed in most pregnancies to screen for neurological anomalies such as spina bifida. The nurse who drew my blood for the AFP said she would call me with the results in about two weeks, but if there was a problem, the doctor would call.

When Dr. Lui called I was not thinking and started chatting away to her until I remembered what the nurse said; my heart started pounding. Dr. Lui told me that the AFP showed an elevated level of something which might indicate that there was a problem with our baby. She advised us to have an amniocentesis even though the chances were still great that everything was fine.

My husband and I talked about what we would do if there was something "abnormal." We quickly decided that we are strong people and very much in love and, that while having a mentally or physically disabled child would be hard that it would not be too hard. But we also decided that we needed to know what we were dealing with, so I made an appointment with a perinatalogist at Northwestern Hospital to have an amniocentesis. During the ultrasound for the amniocentesis, the doctor noticed that the baby's head was too large and that there was a lot of fluid in his head. He told me to have another ultrasound in two weeks to check the progression.

I had no idea what all this meant so I rushed to Dr. Lui's office and asked her to explain. She drew some pictures and explained that the condition was called hydrocephalus; that in every person's head there is fluid to protect and cushion the brain, but if there is too much fluid, the brain cannot develop. I called my husband at work and had him taken out of a meeting to ask him to meet me right away. I explained everything to him. He said that everything would work out and not to worry. We actually believed everything would be OK in two weeks.

I told my father that we might have a problem, but he also said that everything would be fine since there are no genetic problems in either Bill's family or mine. When we told my mother-in-law, she said she would pray for us. We are all Catholic and go to church every week. When we have problems and worries, we turn to prayer. So, we prayed, as did our parents and grandparents.

To complicate matters even more, while these problems were occurring Bill and I were in the process of moving from Chicago to Los Angeles for my husband's job. As we were driving across the country, we had a week to talk and think and pray.

We arrived at our new apartment in Los Angeles on Sunday afternoon to a letter

from Northwestern Hospital in Chicago saying that the amniocentesis results were perfect. We were so relieved. I knew that there was still a chance that the excess fluid on the brain was a problem, but we had been praying so hard and wanted this baby so much that we truly believed that everything was going to be fine. Since it was Sunday, we went to church and thanked God. We went to bed happy that night; our worries were over.

Monday was my husband's first day of work at his new job. I had an appointment scheduled with a perinatalogist from Santa Monica Hospital and Cedar Sinai Hospital for another ultrasound. Bill insisted on coming to the ultrasound, even though I told him that he did not need to be there—after all, it was his first day of work. But I did think it would be exciting for him to see our baby on the ultrasound. I was 21 weeks pregnant.

The doctor, Dr. Connie Agnew, asked why we were there. We explained what the doctors in Chicago had told us and she said she would make her own diagnosis. After about a minute, she told us that she did not have good news; it was a very advanced textbook case of hydrocephaly. My husband almost passed out. We asked what we could do and she said there was nothing we could do. A hydrocephalic baby that advanced has no hope. The baby would most likely be stillborn. She recommended that we terminate the pregnancy.

Our ob/gyn in Los Angeles, Dr. William Frumovitz, recommended a second opinion. Dr. Frumovitz sent us to a wonderful, compassionate doctor at Cedar Sinai Hospital, Dr. Dru Carlson. She stayed late to see us and confirmed our worst fears. She asked us to bear with her as she looked at our baby to see if there were any other problems besides the hydrocephaly. We sat there and watched as she examined our baby, the baby we knew we would never have. She worked very hard for 45 minutes and then told us that in addition to the brain fluid problem, the baby's stomach had not developed and he could not swallow. We asked about in-utero operations and drains to remove the fluid, but Dr. Carlson said there was absolutely nothing we could do. The hydrocephaly was too advanced. Our precious little baby was destined to be taken from us. Dr. Carlson also recommended that we terminate the pregnancy.

My poor husband called our parents and grandparents and told them the awful news. My father started crying; we were all crying. This couldn't be happening to us. But it did happen to us.

Doctors Frumovitz, Agnew and Carlson referred us to Dr. James McMahon. They all said that the procedure that he performs, the intact dilation and evacuation (Intact D&E), was the best and safest procedure for me to have. The multiple days of dilation would not be traumatic to my cervix. This was important to preserve my body and protect my future fertility. They knew that that was very important to my husband and I since we really wanted to have children in the future. Dr. Carlson said that with this procedure they would be able to perform an autopsy to determine if we were likely to face similar problems in future pregnancies. With no hope for this baby, our doctors were recommending the best option, with hope for the future.

Dr. McMahon and his staff were the kindest people you could ever meet. They explained the intact D&E procedure to us. Dr. McMahon used ultrasound to examine the baby, in case the three other specialists were wrong. They were not.

The dilation took three days and two trips a day to his office. These were the worst days of our lives. We had lost our son before we even had him. After the dilation was complete, I was put under heavy anesthesia. A simple needle was used to remove the fluid from the baby's head, the same fluid that killed our son. This enabled his head to fit through my cervix.

My husband and I are disturbed by the way this compassionate medical procedure has been portrayed by members of Congress. We thoroughly investigated this procedure before we had it. Every specialist told us that it is a safe and compassionate procedure. We were very informed and educated before making this decision. What they were saying in Congress bothered us so much that I went back to Dr. McMahon's office to try to figure out why this procedure was being misrepresented. Our anger at how this procedure was portrayed is why I am here today.

This is the hardest thing I have ever been through. I pray that this will never happen to anyone ever again, but it will and those of us unfortunate enough to have to live through this nightmare need a procedure which will give us hope for the future. With this procedure families can see, hold and even bury their babies. In addition, the baby can be visually or clinically studied by specialists to determine if there are genetic abnormalities that can be avoided in future pregnancies. I am lucky that I was able to have this procedure. Because the trauma to my body was minimized by this procedure, I was able to become pregnant again, only four months later. We are expecting another baby in September. Dr. McMahon and the intact D&E procedure made this possible for us.

One of the first things Dr. McMahon told us was that this job was not done until he and his staff receive a baby picture of our next child. At the time, I couldn't imagine becoming pregnant ever again. A month later, it was all I thought about. I desperately wanted to be pregnant and finally start our family. This procedure gave us hope. Please don't take that away from the families who will need it after us. You must leave medical decisions to the families and the medical experts who have to live with the consequences. It is not the place of government to interfere in these very private, personal decisions.

Mr. STUPAK. Mr. Speaker, I rise today to express my support of the Senate amendments to H.R. 1833, legislation to ban partial-birth abortions.

I would like to share with my colleagues some highly cogent articles on the highly emotional issue of partial-birth abortions. I believe Dennis Byrne of the Chicago Sun-Times; George Will, writing for Newsweek magazine; and, John Leo, in U.S. News and World Report, convey some very important views that we should take into consideration as we debate and deliberate this legislation.

[From the Chicago Sun-Times, Dec. 12, 1995]

TRUTH IN REPORTING? GIMME A BREAK

(By Dennis Byrne)

Hands-down winner of the sleazy, dishonest journalism award is NBC's "Dateline" for its "reporting" on the partial-birth abortion ban. Not that NBC didn't have some stiff competition from other pro-choice media acolytes who blindly parrot the line that partial-birth abortions don't hurt the kid and are used only to save mama.

But NBC outdid all of them with a segment broadcast before the Senate voted Thursday to approve the ban on grisly partial-birth abortions. In it, NBC gave the white, middle-aged male senator who backed the bill (apparently no self-respecting woman of child-bearing age could be found to support the bill) a fraction of the time and none of the sympathetic treatment accorded the other side: a tearful woman who told Congress she had to have the procedure because of a defect in her fetus. The grieving, sensitive couple was even interviewed at graveside.

NBC neglected to make one critical fact clear, though: The couple's story had absolutely nothing to do with the ban. The whole story was irrelevant because the law would apply only to such abortions on live fetuses. This couple's was dead.

Continuing the parade of horribles: ABC's Sam Donaldson (M.D., Ph.D., etc.) explained Sunday that partial-birth abortions are used only for the most serious of health reasons. Which ignores what one doctor who performs them, Martin Haskell, told the American Medical Association's newspaper, American Medical News: "In my particular case, probably 20 percent are for genetic reasons. And the other 80 percent are purely elective."

The story also speared some other pro-choice myths, such as the idea that the fetus is dead before the abortion begins. "No, it's not," replied Haskell, estimating that in his case, about two-thirds of the fetuses are alive at the start of the procedure. Naturally, pro-choice extremists attacked the publication for supposedly misrepresenting Haskell, but the paper stood by the reporting, and produced a transcript from a tape recording.

Then comes AP reporter Diane Duston, who, in a story Friday about President Clinton promising to veto the bill, wrote without attribution: "Late second- or third-trimester abortions are performed to remove a severely deformed or already dead fetus that could cause the mother to die, become infertile or otherwise desperately ill." She ignores Haskell, who himself testified that "agoraphobia" (fear of open places) was among the reasons some women had sought a second-trimester abortion. Another physician testified that three of her own patients had gone to Haskell for abortions well beyond 4½ months into pregnancy—and that none were ill and all had normal fetuses. Another doctor who performed partial-birth abortions, the late James McMahon, acknowledged he performed at least 39 partial-birth abortions for "depression" and nine for cleft palate.

Then there is Kate ("I-make-it-up-as-I go-along") Michelman, president of the National Abortion and Reproductive Rights Action League, who said that anesthesia kills the fetus before the abortion. That riled the American Society of Anesthesiologists, which said such claims have "absolutely no basis in scientific fact." It doesn't kill the fetus, and may not even relieve its pain. Such false claims, the group added, endanger pregnant women and their unborn children because they might discourage medically necessary surgical procedures.

Finally, the Chicago Tribune weighed in Nov. 8 with a one-sided report of a National Organization for Women press conference opposing the ban. It was a moving story of a Naperville woman who had this procedure to spare her deformed child the trouble of living. But neither the Tribune nor NBC bothered telling the equally moving and eloquent story of an Oak Park woman, a Democrat, who also testified before Congress about how she decided not to have the procedure. More on her later.

[From the Chicago Sun-Times, Jan. 4 1996]

NEVER LET FACTS IMPEDE IDEOLOGY

(By Dennis Byrne)

Somehow the wacky idea has gotten out that giving pregnant women anesthesia is bad.

The American Society of Anesthesiologists worries that women will delay necessary or even lifesaving medical procedures because they fear anesthesia will harm their fetuses. Dr. David Birnbach, of the Society for Obstetric Anesthesia and Perinatology, says cases of maternal concerns about dangers to the fetus have recently surfaced, the American Medical Association's American Medical News reported. Rep. Tom Coburn (R-Okla.), who still delivers babies, said a patient even refused epidural anesthesia during childbirth.

Birnbach and other experts uniformly insist that the fear is unfounded. Dr. Norig Ellison, president of the American Society of Anesthesiologists, told Congress that more than 50,000 pergant women are safely anesthetized annually without ill effects to mother or fetus.

Yet some folks are saying otherwise, including Kate Michelman, president of the National Abortion and Reproductive Rights Action League. Their insistence that anesthesia administered during partial-birth abortions prevents fetal pain and causes fetal death is having an unfortunate consequence: Some women are becoming afraid that anesthesia will harm babies they're planning to have.

Ellison's group has no position on the controversial ban on partially-birth abortions, in which a live, late-term fetus is partially pulled feet first, from the womb, stabbed in the back of the neck and its brains sucked out. But they do feel strongly about Michelman's misinformation. Birnbach said assertions that anesthesia causes fetal death in such abortions are shocking and crazy.

Ellison branded as "entirely inaccurate" a claim by an abortionist that the anesthesia eliminates fetal pain and causes brain death before the abortion. The fact is, he said, only a small portion of general anesthesia crosses the placenta to reach the fetus, depending on the amount, and none administered regionally does. It is not "absolutely known," he added, that the anesthesia even reduces the fetus' pain. "I have not spoken with one anesthesiologist who agrees with [the abortionist's] conclusion, and in my judgment, it is contrary to scientific fact. It simply must not be allowed to stand," he said.

As their evidence, pro-choicers cite a letter from an Albuquerque physician (not an anesthesiologist), Lewis Koplik, who opposes the ban. I read the letter to Ellison, who branded its conclusions "wrong" and "untrue." A dose of anesthesia massive enough to kill the fetus, as cited in the letter, places the mother's own health "in serious jeopardy," Ellison said, and should require the presence of an anesthesiologist (which is not standard practice).

Despite all this, Michelman's misinformation continues to be repeated as the unqualified truth by, for example, Sen. Carol Moseley-Braun (D-Chicago), syndicated columnist Ellen Goodman, a USA Today editorial, KMOX-AM in St. Louis and Planned Parenthood, said the National Right to Life Committee. Michelman repeated the assertion in a letter to the editor here on Sunday, attacking my support of the ban. (She also claimed I said that the anesthesia "does not affect the fetus"—which I didn't. But accuracy apparently isn't Michelman's strong suit.)

Ellison confesses to frustration that Michelman's misinformation gets circulated without challenge, while his scientific evidence is barely mentioned. Welcome, Doc, to the abortion wars, as referred by the ever-objective media. Never let facts stand in the way of a favored ideological agenda. Not even at the expense of women's health.

[From Newsweek, Dec. 11, 1995]

THE LAST WORD—FANATICS FOR CHOICE

PARTIAL-BIRTH ABORTIONS, SONOGRAM PHOTOS AND THE IDEA THAT "THE FETUS MEANS NOTHING"

(By George F. Will)

Americans are beginning to recoil against the fanaticism that has helped to produce this fact: more than a quarter of all American pregnancies are ended by abortions. Abundant media attention has been given to the extremism that has tainted the right-to-life movement. Now events are exposing the extraordinary moral evasions and callousness characteristic of fanaticism, prevalent in the abortion-rights lobby.

Begin with "partial-birth abortions." Pro-abortion extremists object to that name, preferring "intact dilation and evacuation," for the same reason the pro-abortion movement prefers to be called "pro-choice." What is "intact" is a baby. During the debate that led to House passage of a ban on partial-birth abortions, the right-to-life movement was criticized for the sensationalism of its print advertisements featuring a Dayton nurse's description of such an abortion:

"The mother was six months pregnant. The baby's heartbeat was clearly visible on the ultrasound screen. The doctor went in with forceps and grabbed the baby's legs and pulled them down into the birth canal. Then he delivered the baby's body and the arms—everything but the head. The doctor kept the baby's head just inside the uterus. The baby's little fingers were clasping and unclasping and his feet were kicking. Then the doctor stuck the scissors through the back of his head, and the baby's arms jerked out in a flinch, a startled reaction, like a baby does when he thinks that he might fall. The doctor opened up the scissors, stuck a high-powered suction tube into the opening and sucked the baby's brains out."

To object to this as a sensationalism is to say that discomforting truths should be suppressed. But increasingly the language of pro-abortion people betrays a flinching from facts. In a woman's story about her chemical abortion, published last year in Mother Jones magazine, she quotes her doctor as saying. "By Sunday you won't see on the monitor what we call the heartbeat." "What we call"? In partial-birth abortions the birth is kept (just barely) partial to preserve the legal fiction that a baby (what some pro-abortion people call "fetal material") is not being killed. An abortionist has told The New York Times that some mothers find such abortions comforting because after the killing, the small body can be "dressed and held" so the (if pro-abortionists will pardon the expression) mother can "say goodbye." The New York Times reports, "Most of the doctors interviewed said they saw no moral difference between dismembering the fetus within the uterus and partially delivering it, intact, before killing it." Yes.

Opponents of a ban on partial-birth abortions say almost all such abortions are medically necessary. However, an abortionist at the Dayton clinic is quoted as saying 80 percent are elective. Opponents of a ban on such abortions assert that the baby is killed before the procedure, by the anesthesia given to the mother. (The baby "undergoes demise," in the mincing words of Kate Michelman of the National Abortion and Reproductive Rights Action League. Does Michelman say herbicides cause the crab grass in her lawn to "undergo demise"? Such Orwellian language is a sure sign of squeamishness.) However, the president of the American Society of Anesthesiologists says this "misinformation" has "absolutely no basis in scientific fact" and might endanger pregnant women's health by deterring them from receiving treatment that is safe.

Opponents of a ban say there are only about 600 such procedures a year. Let us suppose, as not everyone does, the number 600 is accurate concerning the more than 13,000 abortions performed after 21 weeks of gestation. Still, 600 is a lot. Think of two crashes of jumbo airliners. Opponents of the ban darkly warn that it would be the first step toward repeal of all abortion rights. Columnist John Leo of U.S. News & World Report says that is akin to the gun lobby's argument that a ban on assault weapons must lead to repeal of the Second Amendment.

In a prophecy born of hope, many pundits have been predicting that the right-to-life "extremists" would drastically divide the Republican Party. But 73 House Democrats voted to ban partial-birth abortions; only 15 Republicans opposed the ban. If the ban survives the Senate, President Clinton will probably veto it. The convention that nominated him refused to allow the Democratic governor of Pennsylvania, Bob Casey, who is pro-life, to speak. Pro-choice speakers addressed the 1992 Republican Convention. The two presidential candidates who hope that a pro-choice stance would resonate among Republicans—Gov. Pete Wilson, Sen. Arlen Specter—have become the first two candidates to fold their tents.

In October in The New Republic, Naomi Wolf, a feminist and pro-choice writer, argued that by resorting to abortion rhetoric that recognizes neither life nor death, pro-choice people "risk becoming precisely what our critics charge us with being: callous, selfish and casually destructive men and women who share a cheapened view of human life." Other consequences of a "lexicon of dehumanization" about the unborn are "hardness of heart, lying and political failure." Wolf said that the "fetus means nothing" stance of the pro-choice movement is refuted by common current practices of parents-to-be who have framed sonogram photos and fetal heartbeat stethoscopes in their homes. Young upscale adults of childbearing age are a solidly pro-choice demographic group. But they enjoy watching their unborn babies on sonograms, responding to outside stimuli, and they read "The Well Baby Book," which says: "Increasing knowledge is increasing the awe and respect we have for the unborn baby and is causing us to regard the unborn baby as a real person long before birth . . ."

Wolf argued for keeping abortion legal but treating it as a matter of moral gravity because "grief and respect are the proper tones for all discussions about choosing to endanger or destroy a manifestation of life." This temperate judgment drew from Jane Johnson, interim president of Planned Parenthood, a denunciation of the "view that there are good and bad reasons for abortion." So, who now are the fanatics?

[From U.S. News & World Report, Nov. 1995]

HARDER HEARTS ON ABORTION

(By John Leo)

Partial birth abortions are unsettling even to read about—the only version of abortion

in which fetuses, either viable, or near viability, are partly visible outside the body while alive and inches away from birth before being dispatched.

They are typically performed at 20 to 24 weeks, but sometimes later. The fetus is manipulated so that its feet and sometimes part of its body are outside the mother. The head is left in the uterus. Then the skull is pierced and the brain is suctioned out, causing skull collapse and death.

Why is the head of the fetus left inside the uterus when the removal of the brain takes place? "Avoiding trauma to the cervix" is usually cited as the reason, but the bottom line is really legal. Stopping the head just short of birth is a legal fig leaf for a procedure that doesn't look like abortion at all. It looks like infanticide.

Brenda Shafer, a registered nurse who supports abortion rights, says she witnessed three of these operations during a brief assignment to assist Dr. Martin Haskell at an Ohio abortion clinic in 1993. She says the three fetuses, two normal and one with Down's syndrome, all three 25 or more weeks along were alive when Dr. Haskell inserted scissors into their skulls. "I still have nightmares about what I saw," she said in a letter to an antiabortion Congressman in urging passage of the Partial Birth Abortion Ban Act.

Abortion-rights supporters have greeted the partial birth issue as the beginning of a new crusade to undermine *Roe* v. *Wade*. For some abortion opponents, it obviously is. But it also is true that a great many Americans. on both sides and in the middle are deeply troubled by the brutality and questionable morality of this particular procedure. It deserves to be judged on its own.

COSTLY VOTE

In the House vote, a dozen pro-choice Congressmen, including Ted Kennedy's son Patrick joined the lopsided majority and voted to ban partial birth procedures. They did this knowing they face some aggressive retribution from the abortion-rights lobby without gaining any support from the antiabortion side. "It was a costly vote." said Rep. Jim Moran of Virginia, an abortion-rights backer. "I'm not going to vote in such a way that I have to put my conscience on the shelf."

It should be noted that the abortion lobby is having trouble getting its facts straight. After Brenda Shafer made her statement. Dr. Haskell said he didn't recall any such person working at his clinic. An employment card was produced. Then Rep. Patricia Schroeder and others extracted a nondenial denial from Dr. Haskell's head nurse, saying that Brenda Shafer "would not" have been present at the three abortions she said she saw.

Kate Michelman and other abortion-rights lobbyists insisted that partial birth abortion is "confined to extraordinary medical circumstances" and that anesthesia "causes fetal demise . . . prior to the procedure." Not true. A 1993 interview with Dr. Haskell in an American Medical Association newspaper quotes him as saying that 80 percent of these procedures are elective and two thirds occur while the fetus is alive. Dr. Haskell wrote a letter strongly implying he was misquoted. But an audiotape was produced showing that he wasn't.

And Michelman said. "It's not only a myth, it's a lie" that partial birth abortions are used to eliminate fetuses for minor defects such as cleft palates. But abortion practitioner Dr. James McMahon already had told Congress he had personally performed nine of these procedures solely because of cleft palates. Compared with the abortion-rights lobby, the O.J. defense looks obsessively ethical and tightly focused on verifiable truth.

In an article last month in the New Republic, feminist Naomi Wolf, an abortion-rights advocate, wrote that "with the prochoice rhetoric we use now, we incur three destructive consequences . . . hardness of heart, lying and political failure." She wrote: "By refusing to look at abortion within a moral framework, we lose the millions of Americans who want to support abortion as a legal right but still need to condemn it as a moral iniquity."

The partial birth issue is a good time for abortion-rights supporters to reclaim the moral framework that Wolf says they have relinquished. This repellent procedure goes way too far. No other Western nation, to my knowledge, allows it. It was unanimously condemned by the American Medical Association's council on legislation. (The full association later decided to-duck the issue and take no position.)

Those who defend it reflexively because it may lead to other legislation are in the exact position of gun lobbyists who shoot down bans on assault weapons because those bans may one day lead to a roundup of everybody's handguns. they refuse, on tactical grounds, to confront the moral issue involved. More of the abstract hardness that Wolf writes about.

Killing a five-month or six-month fetus that's halfway down the birth canal raises a moral issue way beyond that of ordinary abortion. It's perfectly possible to support a woman's right to abort and still think that the anything goes ethic of this horrific procedure has no place in a culture with any reverence left for life.

The SPEAKER pro tempore. Pursuant to the rule, the previous question is ordered.

The question in on the motion offered by the gentleman from Florida [Mr. CANADY].

The question was taken; and the Speaker pro tempore announced that the ayes appear to have it.

Mr. CANADY of Florida. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 286, nays 129, answered "present" 1, not voting 15, as follows:

[Roll No 94]

YEAS—286

Allard
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Bereuter
Bevill
Bilbray
Bilirakis
Bliley
Blute
Boehner
Bonilla
Bonior
Bono
Borski
Brewster
Browder
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clement
Clinger
Coble
Coburn
Collins (GA)
Combest
Condit
Cooley
Costello
Cox
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
de la Garza
Deal
DeLay
Diaz-Balart
Dickey
Dingell
Doolittle
Doyle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flake
Flanagan
Foglietta
Foley
Forbes
Fox
Franks (NJ)
Frisa
Frost
Funderburk
Gallegly
Ganske
Gekas
Gephardt
Geren
Gilchrest
Gillmor
Goodlatte
Goodling
Gordon
Goss
Graham
Gunderson
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hancock
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Hefner
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Holden
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Jacobs
Jefferson
Johnson (SD)
Johnson, Sam
Jones
Kanjorski
Kaptur
Kasich
Kennedy (RI)
Kildee
Kim
King
Kingston
Kleczka
Klink
Klug
Knollenberg
LaFalce
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Lipinski
Livingston
LoBiondo
Longley
Lucas
Manton
Manzullo
Martinez
Martini
Mascara
McCollum
McCrery
McDade
McHale
McHugh
McInnis
McIntosh
McKeon
McNulty
Metcalf
Mica
Miller (FL)
Minge
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Moran
Murtha
Myers
Myrick
Neal
Nethercutt
Neumann
Ney
Norwood
Nussle
Oberstar
Obey
Ortiz
Orton
Oxley
Packard
Parker
Paxon
Payne (VA)
Peterson (MN)
Petri
Pombo
Pomeroy
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Radanovich
Rahall
Ramstad
Regula
Riggs
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Solomon
Souder
Spence
Spratt
Stearns
Stenholm
Stockman
Stump
Stupak
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thornberry
Thornton
Tiahrt
Traficant
Upton
Volkmer
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)
Zeliff

NAYS—129

Abercrombie
Ackerman
Andrews
Baldacci
Becerra
Beilenson
Bentsen
Berman
Bishop
Boehlert
Boucher
Brown (CA)
Brown (FL)
Brown (OH)
Campbell
Cardin
Chapman
Clay
Clayton
Clyburn
Coleman
Collins (MI)
Conyers
Coyne
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dixon
Doggett
Dooley
Durbin
Edwards
Engel
Eshoo
Evans
Farr
Fattah

Fazio
Fields (LA)
Frank (MA)
Franks (CT)
Frelinghuysen
Furse
Gejdenson
Gilman
Gonzalez
Green
Greenwood
Gutierrez
Hastings (FL)
Hilliard
Hinchey
Horn
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Johnson (CT)
Johnson, E. B.
Johnston
Kelly
Kennedy (MA)
Kennelly
Kolbe
Lantos
Levin
Lewis (GA)
Lofgren
Lowey
Luther
Maloney
Markey
Matsui
McCarthy
McDermott
McKinney
Meehan
Meek
Menendez
Meyers
Miller (CA)
Mink
Morella
Nadler
Olver
Owens
Pallone
Pastor
Payne (NJ)
Pelosi
Peterson (FL)
Pickett
Rangel
Reed
Rivers
Rose
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Shays
Skaggs
Slaughter
Stark
Studds
Thompson
Thurman
Torkildsen
Torres
Towns
Velazquez
Vento
Visclosky
Waters
Watt (NC)
Waxman
Williams
Wilson
Wise
Woolsey
Wynn
Yates
Zimmer

ANSWERED "PRESENT"—1

Richardson

NOT VOTING—15

Bryant (TX)
Collins (IL)
Dornan
Filner
Ford
Fowler
Gibbons
Harman
Roukema
Smith (WA)
Stokes
Thomas
Torricelli
Ward
Weldon (PA)

□ 2008

The Clerk announced the following pairs:

On this note:

Mr. Thomas of California for, with Ms. Harman against.

Mr. Fowler of Florida for, with Mr. Stokes against.

Mr. MYERS of Indiana changed his vote from "nay" to "yea."

So the motion was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. WARD. Mr. Speaker, on March 27, 1996, I was unavoidably detained and missed one rollcall vote. I would like the record to show that had I been present for rollcall vote No. 94, on H.R. 1833, the so-called partial-birth abortion ban, I would have voted "no."

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. ROGERS). Pursuant to the provisions of clause 5 of rule I, the chair will now put the question on each motion to suspend the rules on which further proceeding were postponed on Tuesday, March 26, 1996, in the order in which that motion was entertained.

Votes will be taken in the following order: House Resolution 379, by the yeas and nays: and House Concurrent Resolution 102, by the yeas and nays.

The Chair will reduce to 5 minutes the time for the second electronic vote.

ANNIVERSARY OF MASSACRE OF KURDS BY IRAQI GOVERNMENT

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and agreeing to the resolution, House Resolution 379.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York [Mr. GILMAN] that the House suspend the rules and agree to the resolution, House Resolution 379, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 409, nays 0, not voting 22, as follows:

[Roll No. 95]

YEAS—409

Abercrombie
Ackerman
Allard
Andrews
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Becerra
Beilenson
Bentsen
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehlert
Boehner
Bonilla
Bonior
Bono
Boucher
Brewster
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cardin
Castle
Chabot
Chambliss
Chapman
Chenoweth
Christensen
Chrysler
Clay
Clayton
Clement
Clyburn
Coble
Coburn
Coleman
Collins (GA)
Collins (MI)
Combest
Condit
Cooley
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
de la Garza
Deal
DeFazio
DeLauro
Dellums
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Durbin
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Evans
Everett
Ewing
Farr
Fattah
Fawell
Fazio
Fields (LA)
Fields (TX)
Flake
Flanagan
Foglietta
Foley
Forbes
Fox
Frank (MA)
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Frost
Funderburk
Furse
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Geren
Gilchrest
Gillmor
Gilman
Gonzalez
Goodlatte
Goodling
Gordon
Goss
Graham
Green
Greenwood
Gunderson
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hancock
Hansen
Hastert
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hefner
Heineman
Herger
Hilleary
Hilliard
Hinchey
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Houghton
Hoyer
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson (IL)
Jackson-Lee (TX)
Jacobs
Jefferson
Johnson (CT)
Johnson (SD)
Johnson, E. B.
Johnson, Sam
Johnston
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kim
King
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
LaFalce
LaHood
Lantos
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Longley
Lowey
Lucas
Luther
Maloney
Manton
Manzullo
Markey
Martinez
Martini
Mascara
Matsui
McCarthy
McCollum
McCrery
McDade
McHale
McHugh
McInnis
McIntosh
McKeon
McKinney
McNulty
Meehan
Meek
Menendez
Metcalf
Meyers
Mica
Miller (CA)
Miller (FL)
Minge
Mink
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Moran
Morella
Murtha
Myers
Myrick
Nadler
Neal
Nethercutt
Neumann
Ney
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Oxley
Packard
Pallone
Parker
Pastor
Paxon
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Petri
Pombo
Pomeroy
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Radanovich
Rahall
Ramstad
Rangel
Reed
Regula
Richardson
Riggs
Rivers
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Roth
Roukema
Roybal-Allard
Royce
Rush
Sabo
Salmon
Sanders
Sanford
Sawyer
Saxton
Scarborough
Schaefer
Schiff
Schroeder
Schumer
Scott
Seastrand
Sensenbrenner
Serrano
Shadegg
Shaw
Shays
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Solomon
Souder
Spence
Spratt
Stearns
Stenholm
Stockman
Stump
Stupak
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thompson
Thornberry
Thornton
Thurman
Tiahrt
Torkildsen
Torres
Towns
Traficant
Upton
Velazquez
Vento
Visclosky
Volkmer
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Ward
Watt (NC)
Watts (OK)
Waxman
Weldon (FL)
Weller
White
Whitfield
Wicker
Williams
Wilson
Wise
Wolf
Woolsey
Wynn
Yates
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—22

Borski
Bryant (TX)
Clinger
Collins (IL)
Conyers
DeLay
Dornan
Filner
Ford
Fowler
Gibbons
Harman
McDermott
Pickett
Smith (WA)
Stark
Stokes
Studds
Thomas
Torricelli
Waters
Weldon (PA)

□ 2027

So (two-thirds having voted in favor thereof) the rules were suspended and the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. ROGERS). Pursuant to the provisions of clause 5 of rule I, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device will be taken on the additional motion to suspend the rules on which the Chair had postponed further proceedings.

EMANCIPATION OF IRANIAN BAHAI COMMUNITY

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and agreeing to the concurrent resolution, House Concurrent Resolution 102.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York [Mr. GILMAN] that the House suspend the rules and agree to the concurrent resolution, House Concurrent Resolution 102, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 408, nays 0, not voting 23, as follows:

[Roll No 96]

YEAS—408

Abercrombie
Ackerman
Allard
Andrews
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Becerra
Beilenson
Bentsen
Bereuter
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehlert
Boehner
Bonilla
Bonior
Bono
Boucher
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cardin
Castle
Chabot
Chambliss
Chapman
Chenoweth
Christensen
Chrysler
Clay
Clayton
Clement
Clyburn
Coble
Coburn
Coleman
Collins (GA)
Collins (MI)
Combest
Condit
Conyers
Cooley
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
de la Garza
Deal
DeFazio
DeLauro
Dellums
Deutsch
Diaz-Balart
Dickey
Dingell
Dixon
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Durbin
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Evans
Everett
Ewing
Farr
Fattah
Fawell
Fazio
Fields (LA)
Fields (TX)
Flanagan
Foglietta
Foley
Forbes
Fox
Frank (MA)
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Frost
Funderburk
Furse
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Geren
Gilchrest
Gillmor
Gilman
Gonzalez
Goodlatte
Goodling
Gordon
Goss
Graham
Green
Greenwood
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hancock
Hansen
Hastert
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hefner
Heineman
Herger
Hilleary
Hilliard
Hinchey
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Houghton
Hoyer
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson (IL)
Jackson-Lee (TX)
Jacobs
Jefferson
Johnson (CT)
Johnson (SD)
Johnson, E. B.
Johnson, Sam
Johnston
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kim
King
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
LaFalce
LaHood
Lantos
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Longley
Lowey
Lucas
Luther
Maloney
Manton
Manzullo
Markey
Martinez
Martini
Mascara
Matsui
McCarthy
McCollum
McCrery
McDade
McHale
McHugh
McInnis
McIntosh
McKeon
McKinney
McNulty
Meehan
Meek
Menendez
Metcalf
Meyers
Mica
Miller (CA)
Miller (FL)
Minge
Mink
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Moran
Morella
Murtha
Myers
Myrick
Nadler
Neal
Nethercutt
Neumann
Ney
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Oxley
Packard
Pallone
Parker
Pastor
Paxon
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pombo
Pomeroy
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Radanovich
Rahall
Ramstad
Rangel
Reed
Regula
Richardson
Riggs
Rivers
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Roth
Roukema
Roybal-Allard
Royce
Rush
Sabo
Salmon
Sanders
Sanford
Sawyer
Saxton
Scarborough
Schaefer
Schiff
Schroeder
Schumer
Scott
Seastrand
Sensenbrenner
Serrano
Shadegg
Shaw
Shays
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Solomon
Souder
Spence
Spratt
Stark
Stearns
Stenholm
Stockman
Stump
Stupak
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thompson
Thornberry
Thornton
Thurman
Tiahrt
Torkildsen
Torres
Towns
Traficant
Upton
Velazquez
Vento
Visclosky
Volkmer
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Ward
Waters
Watt (NC)
Watts (OK)
Waxman
Weldon (FL)
Weller
White
Whitfield
Wicker
Williams
Wilson
Wise
Wolf
Woolsey
Wynn
Yates
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—23

Berman
Borski
Brewster
Bryant (TX)
Clinger
Collins (IL)
DeLay
Dicks
Dornan
Filner
Flake
Ford
Fowler
Gibbons
Gunderson
Harman
McDermott
Smith (WA)
Stokes
Studds
Thomas
Torricelli
Weldon (PA)

□ 2036

So (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 3136, CONTRACT WITH AMERICA ADVANCEMENT ACT OF 1996

Mr. GOSS, from the Committee on Rules, submitted a privileged report (Rept. No. 104–500) on the resolution (H. Res. 391) providing for consideration of the bill (H.R. 3136) to provide for enactment of the Senior Citizens' Right to Work Act of 1996, the Line-Item Veto Act, and the Small Business Growth and Fairness Act of 1996, and to provide for a permanent increase in the public debt limit, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 3103, HEALTH COVERAGE AVAILABILITY AND AFFORDABILITY ACT OF 1996

Mr. GOSS, from the Committee on Rules, submitted a privileged report (Rept. No. 104–501) on the resolution (H. Res. 392) providing for consideration of the bill (H.R. 3103) to amend the Internal Revenue Code of 1986 to improve portability and continuity of health insurance coverage in the group and individual markets, to combat waste, fraud, and abuse in health insurance and health care delivery, to promote the use of medical savings accounts, to improve access to long-term care services and coverage, to simplify the administration of health insurance, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION WAIVING POINTS OF ORDER AGAINST CONFERENCE REPORT ON H.R. 2854, FEDERAL AGRICULTURE IMPROVEMENT AND REFORM ACT OF 1996

Mr. GOSS, from the Committee on Rules submitted a privileged report (Rept. No. 104–502) on the resolution (H. Res. 393) waiving points of order against the conference report to accompany the bill (H.R. 2854) to modify the operation of certain agricultural programs, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION WAIVING POINTS OF ORDER AGAINST CONFERENCE REPORT ON H.R. 956, COMMON SENSE PRODUCT LIABILITY LEGAL REFORM ACT OF 1996

Mr. GOSS, from the Committee on Rules submitted a privileged report (Rept. No. 104–503) on the resolution (H. Res. 394) waiving points of order against the conference report to accompany the bill (H.R. 956) to establish legal standards and procedures for product liability litigation, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT OF DEPARTMENT OF HEALTH AND HUMAN SERVICES REGARDING RADIATION CONTROL FOR HEALTH AND SAFETY ACT OF 1968—MEASSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Commerce:

To the Congress of the United States:

In accordance with section 540 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360qq) (previously section 360D of the Public Health Service Act), I am submitting the report of the Department of Health and Human Services regarding the administration of the Radiation Control for Health and Safety Act of 1968 during calendar year 1994.

The report recommends the repeal of section 540 of the Federal Food, Drug, and Cosmetic Act that requires the completion of this annual report. All the information found in this report is available to the Congress on a more immediate basis through the Center for Devices and Radiological Health technical reports, the Radiological Health Bulletin, and other publicly available sources. The Agency resources devoted to the preparation of this report could be put to other, better uses.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *March 27, 1996.*

1996 TRADE POLICY AGENDA AND 1995 ANNUAL REPORT ON TRADE AGREEMENTS PROGRAM—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Ways and Means:

To the Congress of the United States:

As required by section 163 of the Trade Act of 1974, as amended (19 U.S.C. 2213), I transmit herewith the 1996 Trade Policy Agenda and 1995 Annual Report on the Trade Agreements Program.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *March 27, 1996.*

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore laid before the House the following communication from the Clerk of the House of Representatives:

WASHINGTON, DC,
March 27, 1996.

Hon. NEWT GINGRICH,
Speaker, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: This is to formally notify you, pursuant to Rule L (50) of the Rules of the House of Representatives, that I, as custodian of records for the Office of the Clerk, U.S. House of Representatives, have been served with three grand jury subpoenas duces tecum issued by the U.S. District Court for the Eastern District of Michigan.

After consultation with the Office of General Counsel, I have determined that the Clerk's Office has no documents responsive to the subpoenas. Through counsel, I will so notify the appropriate Assistant U.S. Attorney.

Sincerely,

ROBIN H. CARLE,
Clerk of the House of Representatives.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

FDA REFORM

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

Mr. FOX of Pennsylvania. Mr. Speaker, I appreciate the opportunity to address my colleagues tonight on a very important topic. Today it was announced that legislation will be introduced this week on FDA reform. This is long overdue here in the Congress, to make sure we help protect the health and safety of our constituents.

□ 2045

Today Congressman GREENWOOD, the task force chairman under Congressman BLILEY started out with a discussion of our mission and was followed with remarks from Chairman BILIRAKIS, Chairman BARTON, Congressman KLUG, Congressman BUYER, Congressman PALLONE, and Congressman RICHARDSON.

It is a bipartisan effort, Mr. Speaker, for the purpose of making sure that we stop the insidious problem we have had in the country with the FDA treatment delayed become FDA treatment denied. We need to save lives, extend the years, and improve quality of life for all of our constituents. An idea whose time has arrived is FDA reform, not just for food, but for medical devices and pharmaceuticals as well.

It may well be the most extensive and important piece of legislation we will deal with in the second session of the 104th Congress, that being FDA reform. If we can hasten the approval process for drugs and medical devices while patients await a cure or a vaccine, we will certainly have accomplished much as Congressman and Senators.

Mr. Speaker, lest anyone believe otherwise, we are certainly not going to reduce in any way the safety of drugs, the efficacy of those drugs, but we want to speed up the process of the approval. It can be done through streamlining the clinical research, through third-party review and through working with international harmonization, by accepting certified results of tests by other-countries.

I am hopeful the many people who came to Washington today who had illnesses such as cancer, ALS, epilepsy, AIDS, and a myriad of other conditions they have come to us saying, look, we need to make sure we can live longer, please, do not stop us from getting the experimental drugs, the miracle drugs we need in order to live a little longer and hope for a cure.

I believe today, ladies and gentleman, that we have heard from the American people, that we can work together in a bipartisan fashion, House and Senate together, working with the White House and working with the FDA. Dr. Kessler has a very important organization that he heads. We need to work with him to make sure the reforms we need are ones that can be embraced by all, because what we are talking about is the health care and the life of all of our constituents across this United States, in the country where 85 percent of the new drugs to extend life and to sustain life are being created. We want to make sure those discoveries stay here and the jobs of the people who are, thankfully, making those discoveries every day.

I thank you for the opportunity to address my colleagues, and I hope that we will fast-track this important legislation and it does in fact become passed before the end of the session.

TRIBUTE TO DAVID PACKARD

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

Mr. FARR of California. Mr. Speaker, it is with deep sorrow that I rise today to salute a man who, without question, represented the very best of California

creativity and American ingenuity. David Packard, who revolutionized both the computer industry and modern-management practices died Tuesday in Palo Alto, CA. He was 83.

For anyone familiar with computers in the 20th century, the name Hewlett-Packard is synonymous with innovation, and with excellence. Founded in 1939 in a Palo Alto garage by Mr. Packard and his good friend William Hewlett, the company is now a recognized leader in its field, employing more than 100,000 workers. The "HP Way," Mr. Packard's standard for corporate practices and employee relations, is commonly cited as one of the best by business experts.

In creating his company, Mr. Packard said, "Get the best employees, stress the importance of teamwork, and fire them up with the will to win." Though many in business may take such words lightly, for Mr. Packard, they represented the only way to succeed.

There were no conventional offices at Hewlett-Packard, not even for the most senior engineers. To stress collaboration and creativity, employees were grouped together in close proximity where they could freely exchange ideas. This respect for the H-P employee also applied in a number of other ways. Hewlett-Packard was among the first in the business world to provide catastrophic medical coverage, flexible work hours and decentralized decision-making.

David Packard also took a keen interest in his global community and was a generous philanthropist. He established the Packard Foundation in 1964 to support community organizations, education, health care, conservation, population projects, the arts, and scientific research.

But while the Nation and the world are remembering David Packard for his business and industrial achievements, the people of the Monterey Bay are remembering David Packard as an ocean pioneer—our nation's Jacques Cousteau. He recently said that "I spent my entire business life in the technology field, and in my industrial career I have seen my share of revolutions in human understanding. I now realize that the ocean is the most important frontier we have."

David Packard used this scientific vision and $55 million to help his daughter Julie develop and open the Montery Bay Aquarium—the world's best example of top science education as good business. David took his vision a step further and built a state of-the-art marine lab at Moss Landing to pioneer new deep ocean exploration technologies. All told, David and his late wife Lucile donated over $450 million to scientific research, education, health care, conservation and the arts.

On a personal note, let me just say that I will sorely miss the many contributions of David Packard. A good family friend, he was one of those few people you cross in life who not only touches our hearts, but also inspires our minds. David was one of a kind. My thoughts and prayers go out to his four children, David, Nancy, Susan and Julie, his colleagues and his many, many friends.

TRIBUTE TO DAVID PACKARD

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

Mr. MCINNIS. Mr. Speaker, I have just heard the gentleman from California [Mr. FARR] speak, and I want to say with some great deal of pride that Mr. Packard was born in Pueblo, CO. He was indeed a fine, fine gentleman and certainly a leader in our country and a leader in business.

THE STRENGTH OF FAMILY AND RELIGION

But I wanted to speak tonight to my colleagues about a couple of things that over the weekend inspired me about family and about duty to our country. Over the weekend I had an opportunity to visit with a very good friend of mine. His name is Jake. Jake is about 20 years old. He is a young man. He sees opportunity in this world. He is one of our kids. I think I call him a kid; he is a young man. But this young man wants to go into this society and continue in this society and accomplish things that he has dreamed of all of his life.

I was particularly pleased to visit with him this weekend because his friend, her name is Kara, and he is intending to propose to her tonight. Jake and Kara, I think, are good examples of the young people that we have in this country, of the assets that we have. I will come back to youth in just a minute.

The second event I went to this weekend was in Pueblo, CO. Pueblo is called the home of heroes. In Pueblo, CO, we have had four of our people, four citizens from Pueblo, who have won the United States Medal of Honor.

This weekend I got to be the guest at the Medal of Honor dinner, which we do have here in Pueblo, CO, where we honored 18. We had 18 Medal of Honor winners in this room. You talk about inspiration, to sit in here, you see people, such as Mr. Di Havera. Mr. Di Havera not only won the U.S. Medal of Honor but he won the Medal of Honor in the country of Mexico.

But the common thread that I saw at the medal of Honor dinner and with my friends Jake and Kara and with my own family was that they had the foundation of family and not only of the foundation of family but the foundation of religion. Regardless of the type of religion that you practice, it was amazing this weekend to see at the Medal of Honor dinner, how strong the families were in this large ballroom that we had. It was exciting to see the young people, such as Jake and Kara, who want to start out their lives together in this fine country. And what do they talk about? They talk about family. You know, a lot of times up here when we deal with these young people and they come to visit us in our offices, the questions they ask and the issues we talk about are a lot of things going wrong with this country, we have got a deficit, a budget deficit accumulating at a rate of about $30 million an hour, we have got a crime problem, we have got problems with the economy.

But what we oftentimes forget to stress to these young people is that in this country there are a lot more things going right than there are wrong. I think that this generation, the generation of Jake and Kara, is a generation that is going to have opportunities that were never there before for any other generation in the history of this country.

But I think that you have got to give credit for those opportunities to people like those brave people, men and women, on the Medal of Honor winners and the people who have set in this country the importance of family and the importance of religion as a foundation for responsibility, for moral values, and for duty to this country.

In conclusion, Mr. Speaker, I just wanted to share with my colleagues the kind of excitement I feel being around a positive setting, there with the Medal of Honor winners, people who gave it their all and then there with young people who are excited about the future of this country. I, too, share their excitement, and I, too, share the privilege of being able to sit with 18 Medal of Honor winners.

REINTRODUCTION OF THE NATIONAL INFRASTRUCTURE DEVELOPMENT ACT OF 1996

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

Mr. ABERCROMBIE. Mr. Speaker, I yield to the gentlewoman from Connecticut [Ms. DELAURO].

Ms. DELAURO. Mr. Speaker, I thank the gentleman from Hawaii for yielding.

Mr. Speaker, today I am reintroducing the National Infrastructure Development Act, which I first introduced at the end of the 103rd Congress. This bill will create more than 250,000 jobs, and help mend our Nation's crumbling infrastructure. I am pleased to be joined by Democratic Leaders DICK GEPHARDT, VIC FAZIO, and DAVID BONIOR, who have lead countless job creation efforts in this country. During this time of debate over the role of our Federal Government, I am proud to bring a bill to the floor which shows that Government can work for America.

At a time when jobs are disappearing and when we face intense international competition from abroad we badly need to create new jobs and make the investments in our roads, bridges, airports, and sewers to make our Nation more competitive.

I want to remind Americans that since the election of President Clinton, the economy has continued to grow. Nearly 8 million jobs were created since his election; the unemployment rate has fallen from 7.3 percent to 5.5 percent; and, the Federal deficit has been cut in half—reducing interest rates and increasing purchasing power.

Yet, despite this good economic news, there are too many regions of the country where job growth remains slow, wages are stagnant, and people are hurting financially. Although the unemployment rate continues to decline in my home State of Connecticut, the continued threat of job loss is damaging the economic security of many families. The Federal Government must help identify new markets, and expand job opportunities for these hardworking Americans.

The National Infrastructure Development Act meets the needs of America by providing the financing mechanism needed to construct roads, bridges, sewers, schools, and airports. My bill works by leveraging a limited public investment in infrastructure to attract private capital investors. In particular, this legislation targets the pension community and other institutional investors. Together, these investors represent $4.5 trillion in investment potential.

Investments in infrastructure create good, high paying jobs, and enable businesses to perform at full capacity. With a small Federal investment, the National Infrastructure Development Act will improve our nation's infrastructure and create 250,000 jobs.

A public investment in infrastructure will succeed in spurring private sector investments. As evidence, we are already seeing private sector investors beginning to finance major infrastructure projects, such as toll roads. Further, a number of American pension plans are looking overseas to countries like China, where infrastructure investment is common. The United States must make private sector infrastructure investments even more attractive in this country.

My bill will make domestic infrastructure investments more attractive by investing in and insuring infrastructure projects through a government sponsored corporation. The National Infrastructure Corporation—or NIC—would be funded by an annual $1 billion government investment over a 3-year period. Construction or repair of schools, toll roads, airports, bridges, sewage treatment facilities, and clean-water projects are potential NIC investments.

Municipalities and states could borrow from the NIC, or be insured by the NIC for infrastructure projects. These projects would be sound investments for pension funds. In return, these investments would strengthen the U.S. economy, and improve our Nation's infrastructure. Over time, the NIC itself would be a solid investment for pension funds. The goal of this legislation is for private investors to eventually buy the Corporation from the Federal Government, repaying the taxpayer's original investment.

In addition, my bill would enable cities or states to offer bonds to pension funds for infrastructure construction. These bonds, called Public Benefit Bonds, would be attractive investments for pension funds because the bonds enable them to pass on tax benefits to their pensions.

To be clear, the National Infrastructure Development Act is not intended to replace the traditional means of funding infrastructure projects. Federal and State assistance will still be needed to fund highways and mass transit projects, sewers, and other infrastructure projects. My bill in only intended to meet the projected $30 billion annual shortfall of funds that are available for infrastructure projects. The NIC will supplement, not supplant, traditional methods of financing domestic infrastructure development.

Investments through the NIC will enable states to make better use of Federal funds they currently receive for these projects by using a small Federal investment to leverage large private investments. More infrastructure will be funded as a result of this legislation.

The National Infrastructure Development Act builds on President Clinton's goals for improving this Nation's infrastructure. The administration has enabled 32 States to construct 70 projects using a variety of innovative financing techniques. In addition, the Department of Transportation is completing a competition for 11 States to be able to establish State infrastructure banks that have a function similar to the National Infrastructure Corporation. Fifteen States entered this competition, and another 5 States wrote to express interest in entering future competitions.

This Congress has already given its approval of these efforts. The fact that so many States are looking for innovative financing methods should send a clear signal to this Congress that we must do more to meet these national infrastructure needs. The National Infrastructure Development achieves this objective.

This is a good government bill that benefits every American.

American workers benefit through good jobs. Under traditional government transportation and infrastructure investment programs, every billion dollars invested creates 35,000 to 50,000 new jobs. Under my bill, every dollar in Federal investment will result in $10 of actual construction. So each billion dollars in Federal investment will create 240,000 to 450,000 new jobs.

American businesses benefit from reliable infrastructure. Businesses depend on airports, roads, wastewater treatment facilities, and clean water projects. Stronger infrastructure will aid economic expansion.

American taxpayers benefit from better modes of transportation for fewer tax dollars, and better environmental quality.

Pension investors benefit because they can look for investment opportunities in the United States instead of overseas.

Every Member of Congress knows that Federal resources are scarce. The National Infrastructure Development Act will fill a major funding gap with a short term, limited investment and rebuild our Nation's infrastructure. Private investors need to have the opportunity to invest in America, and the Federal Government can work in partnership with the private sector.

This partnership will help us rebuild our country's aging infrastructure, create great jobs, and promote good investments.

I urge my colleagues on both sides of the aisle to closely examine this bill. Now is the time for us to move this important piece of legislation.

Mr. GEPHARDT. Mr. Speaker, I am pleased to join Congresswoman DELAURO in cosponsoring the National Infrastructure Development Act.

A fundamental governmental function is to create an economic environment conducive to growth and the creation of new opportunities and good jobs. No aspect of this function is more important than investing in the human and physical capital of the country.

To prosper, our country must invest in upgrading our public works and transportation systems. With the growing importance of high value added industry and just-in-time manufacturing, a strong transportation system is more vital to economic growth than ever. Unfortunately, we face a $300-billion backlog in transportation investment alone. According to recent studies, our national investment in transportation falls $17 billion short of the amount needed just to maintain current levels of performance.

During the 1980's, real Federal investment in infrastructure fell 16 percent. As the Federal Government reduced its investment, greater burdens fell on the states and municipalities. And many of them—not just inner cities or small towns but suburbs as well—have been unable to meet their needs. The result: falling productivity and a diminished quality of life. People spend hours in traffic jams instead of in offices or at home with their families. Traffic congestion now costs drivers in our largest cities over $40 billion per year. And long-promised road improvements needed to lower accident and fatality rates remain undelivered.

While we have made some progress in recent years, numerous studies document the

need for additional investment. Bringing our bridges and highways up to current safety standards would require a doubling of the current highway program. The Bipartisan Commission to Promote Investment in America's Infrastructure reported that America's total investment shortfall in its infrastructure amounts to between $40 billion and $80 billion per year. At the same time, Federal resources are limited. As discretionary spending caps are lowered, the Federal capital investment program will come under enormous pressure.

The purpose of the National Infrastructure Development Act is to increase the public works investment critical to our long-term economic growth. It does so by using innovative financing and techniques already used in the private secton to encourage more investment in our roads, bridges and transit systems.

The National Infrastructure Development Act establishes an innovative, investment-oriented Foreign infrastructure strategy to help States and municipal governments finance needed infrastructure. In creates a National Infrastructure Corporation to provide a broad array of financing for infrastructure projects.

The Clinton administration's innovative investment program shows that there is tremendous interest among States and local governments in new methods that would make Federal capital dollars go further. In the past year along, the administration has given approval to over 70 innovative financing projects in over 30 States. Moreover, 20 States have expressed interest in establishing State infrastructure banks that would enable them to make more created use of Federal transportation funds.

While the Congress in ISTEA provided greater flexibility in our highway program, we have only scratched the surface of the potential. The recent experiences with privately-financed toll roads in California and Virginia and my many discussions with State officials, business leaders, and local leaders lead me to believe that there is a strong need for creative Federal leadership.

By leveraging private and other public sector monies, the corporation would substantially increase the amount of infrastructure created by each Federal public works dollar. Experts estimate that the corporation would leverage up to $10 in private investment for every $1 it receives from the Federal Government. Under this legislation, the corporation's capitalization would be $3 billion. It is anticipated that this could support generate tens of billions in new investment and hundreds of thousands of jobs, while eliminating hundreds of infrastructure bottlenecks that stifle growth.

Congresswoman DELAURO has proposed an innovative mechanism to address the national problem of underinvestment in our public works. The legislation make a valuable contribution to understanding the issue and attaining this goal. I urge my colleagues to join in our effort to boost the Nation's public investment and productivity.

Mr. FAZIO of California. Mr. Speaker, I rise in strong support of legislation creating the National Infrastructure Corporation [NIC], of which I am an original cosponsor.

Today, it is estimated that there are over $30 billion in unfunded infrastructure projects throughout the United States. Due to increasing Federal, State, and local budget constraints, important infrastructure projects are being delayed or not considered at all. While it is clear that the United States is becoming increasingly a technology and information driven based economy, the necessity to build, repair and upgrade our roads, bridges, rail system, schools, and water treatment projects are just as important today as they ever have been.

That is why I have joined my colleagues today to address this important issue. This bill established the National Infrasture Corporation to foster more public/private construction projects and to help create good jobs. The NIC will provide credit assistance in the form of direct loans, bond insurance, and development risk insurance for critically needed infrastructure projects throughout the country.

The creation of the NIC is an innovative or smart financing mechanism to help augment existing Federal and State grant programs. As we in Congress look for better ways to leverage Federal resources, the NIC is a prime example of how the Federal Government can provide initial financial and significant in-kind resources to build new infrastructure and strengthen our old and outdated infrastructure.

To that end, I look forward to working with Representative ROSA DELAURO to bring this legislation to the country's attention and make it a priority in Congress.

□ 2100

REPORT FROM INDIANA ON HOOSIER HEROES

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

Mr. MCINTOSH. Mr. Speaker, I rise today to give my report from Indiana. Every weekend Ruthie and I travel around my district and often meet amazing people, individuals who are truly dedicated to being the backbone of our community.

These are good people, taking responsibility for the future of our community. I like to call them Hoosier heroes. Today I want to praise leaders of the Stop the Violence movement in Anderson, IN, who have come together to help their community. With their persistence and dedication, they have created a very special group called Stop the Violence. Members of the community like Garrett Williams, Rev. Ray Wright, and Al Simmons have joined with schoolteachers and students at the Shadeland Elementary School. They were fed up with gangs and drug dealers and the violence in their streets, and they came together and said, "Stop the violence now." They marched through their streets wearing purple ribbons, purple T-shirts, and a purple ball cap to symbolize peace in our community.

They sent a message to the drug dealers. They were not going to take it anymore. Today, the Stop the Violence movement, which is spearheaded by Rudy Porter in the mayor's office, sends a message to the schoolchildren of Anderson: You do not have to carry guns, you do not have to fight with your classmates, you do not have to buckle under to the pressure of drug dealers to be cool.

Stop the Violence gives schoolchildren and parents hope. They give our entire Nation hope, and I am proud to have been able to march with Rudy and those students, and I wish all Americans could witness the pride and joy that came from those children's faces as they set out to stand up to the criminals and the drug dealers who roam their streets.

They said no. No more violence, no more drugs, no more crime. Hoosier heroes like Rudy Porter and Stop the Violence Committee give us hope that America's best days are indeed yet to come.

That is why I would like to commend not only Rudy, but also the schoolteachers, Karen Crawford and Freddie Williams, and a principal at Shadeland School, - Sharon Taylor Martin, who cares deeply about her children. And let us not forget the children, the children in Shadeland School, whose small, tiny voices, spoke out loudest of all. You made us proud. You are all Hoosier heroes.

If every community in America had Hoosier heroes like Rudy Porter and the students and the leaders of the Stop the Violence movement, our young people would get a message from us, a message loud and clear, we care about you, we have not forgotten who you are.

Thank you, Mr. Speaker. That is my report from Indiana for today. God bless.

NIKE'S RACE TO THE BOTTOM

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Ohio [Ms. KAPTUR] is recognized for 5 minutes.

Ms. KAPTUR. Mr. Speaker, in support of our "Come Shop with Me" campaign, the New York Times fortunately ran a story this month on the business page with the subtitle "Low Wages Would Foreign Business, But the Price Is Worker Poverty." The story, which I will enter in the Record tonight, describes how a 22-year-old Indonesian man named Tongris was dismissed from his job making Nike shoes for export to the United States because he was organizing his fellow workers to demand more than the government-dictated poverty wage.

How much was Tongris and his coworkers getting paid to make Nike shoes? Twenty cents an hour. And that is with no benefits.

More than 5,000 workers turn out Nike shoes at this plant in Indonesia, shoes which often sell for over $100 a pair here in the United States. Nike

and thousands of other manufacturers have been lured to set up business in Indonesia by the pitifully low wage level, along with the assurance by the Indonesian government that it will tolerate no strikes or independent worker associations. But as the Indonesian government itself admits in the article, it sets its wage purpose fully extremely low to only provide the minimum calories the worker need to survive each day.

My friends, this is no different from how plantation owners though about feeding their slaves. Feed them enough so that they will not die on the job. In fact, I remember visiting the Auschwitz death camp and reading the sign above the entry gate that read "Work will make you free."

Nike would like you to believe that they are truly a great American company. Nike in fact has been spending over $250 million a year in advertising to sell you, the consumer, the message that they are a good American corporate citizen. Nike has virtually bought off the entire American sporting world. Just look at how many college coaches and athletes in the NCAA basketball tournament now being played have been paid to wear Nike's trademark, the Gold Swoosh. Your people across this Nation are literally killing people to acquire Nike products.

The truth of the matter is, Nike does not produce one athletic shoe in this country, not one. It has shut down all its U.S. production while siphoning off billions of dollars in this marketplace through sales. But it employs 75,000 workers in places like Indonesia and China, hidden from view of the news media of this country. And they pay their workers exceedingly low wages, 10 cents an hour in China, 20 cents an hour in Indonesia, work them 7 days a week, under complete control of those employers. And yet though the shoes cost only $6 to make and ship to the United States from Indonesia, we end being asked to pay up to $150 a pair.

So it is fair game to ask who is benefiting from this kind of production system? It is not the American worker who is no longer employed making Nike shoes. It is not the worker in Indonesia or China who earns poverty wages. Finally, it is not the American consumer, who is being gouged to pay outrageous prices for Nike.

As Hakeem Olajuwon, the star basketball player from the Houston Rockets courageously pointed out when he refused to endorse Nike shoes, he said, I saw the prices go from $40 to $90 to $150, and in full cognizance that people were dying for these shoes, including inner-city kids, the kids that Nike was targeting with their inner-city role models. There is one sports figure with a conscience in this country. Thank God for that.

We as American workers and consumers could do one better. We could stop buying Nike shoes until Nike pledges allegiance again to the workers of this country and to its producers around the world. Is it not time we put a little bit of conscience back into corporate America?

Mr. Speaker, I include for the RECORD the New York Times article.

[From the New York Times, March 16, 1996]

AN INDONESIAN ASSET IS ALSO A LIABILITY

(By Edward A. Gargan)

SERANG, Indonesia.—Many days Tongris Situmorang, in his blue baseball hat with a large X on the front hangs around the gates of the enormous Nike sport shoe factory here, talking to friends leaving the assembly lines at the end of the work day.

The gangly 22-year-old used to work inside the well-guarded gates, but five months ago he was dismissed for organizing workers to demand more than the 4,600 rupiah they are paid each day, about $2.10, the Government-dictated minimum wage. Then, after being dismissed, he was locked in a room at the plant and interrogated for seven days by the military, which demanded to know more about his labor activities.

"We went on strike to ask for better wages and an improvement in the food," Mr. Situmorang explained "Twenty-two of us went on strike. They told us not to demand anything. They said we wouldn't get any money. But I have sued to get my job back."

Low wages are a big attraction for foreign companies doing business in Asia as high labor costs in the industrialized nations make the manufacturing of many consumer goods uneconomical. Like a wave washing over Asia, labor-intensive factories have swept south and west as incomes and living standards have risen from Hong Kong, Taiwan and South Korea, across Asia to China, Vietnam and Indonesia.

And across the region, businesses in developing economies are felling pressure from workers like Mr. Situmorang to lift wages. Clashes erupt between workers who want more and businesses and governments that fear that rising wages will drive away jobs to even-lower-wage countries. As strikes and worker-organizing attempts have increased here, the Government has taken a harsher line by cracking down on workers with police and military force.

For some companies, like Levi Strauss, worker complaints, were enough to prompt it to leave Indonesia two years ago. But others, like Nike, whose shoes are made in 35 plants across Asia, have expanded in the region to take advantage of cheap labor.

For the Indonesian Government, the long-term solution may be to find manufacturers of products that can support higher wages. "Our strategy is to improve our products so we are not producing products that are made in China, Vietnam, India or Bangladesh," said Tunghi Ariwibowo, the powerful Minister of Industries and Trade. "We cannot compete on wages with them."

More than 5,000 workers churn out Nike shoes here, shoes that often sell in stores in Asia, Europe and North America for perhaps $100 a pair. Nike and thousands of other manufacturers have been lured to set up business in Indonesia by the low wages—and the assurance that the Government will tolerate no strikes or independent unions.

Yet even at a little more than $2 a day, there is a widespread sense in Government circles that even that is too high for Indonesia to stay competitive.

As the Government tries to hold down wages—wages the Government admits provide only 93 percent of the earnings required for subsistence for one person—strikes and worker organizing have increased. And with the increase in labor agitation have come harsher crackdowns by the Government.

A spokeswoman for Nike in the United States, Donna Gibbs, said she was not aware of Mr. Situmorang's case or of the detention and interrogation of workers for a week. However, when pressed, she said, "Our information is that workers were not held for a week."

All the plants that manufacture Nike shoes in Asia, Ms. Gibbs said, are owned by subcontractors, mostly Koreans. Each subcontractor is required to adhere to a code of conduct drawn up by Nike, she said, and managers from Nike are involved in the daily oversight of subcontractors' operations, including not simply quality control matters, but the treatment and working conditions of the labor force.

Nike's code of conduct, Ms. Gibbs said, requires compliance with all local laws, the prevention of forced labor, compliance with local regulations on health and safety and provisions of workers insurance. She said she was unaware of 13- and 14-year-old girls working at the Nike plant here.

"Certainly we have heard and witnessed abuses over time," she said "and typically what happens is that we ask the contractor to rectify the situation and if it is not resolved we can terminate the business.

Ms. Gibbs said Nike has four to six subcontractors in Indonesia, a number that varies according to production needs. She said the minimum monthly wage was 115,000 rupiah, about $52.50, although the average was 240,000 ripiah, about $110. For a pair of shoes costing $80 in the United States, she said, labor accounts for $2.60 of the total cost.

"The problem is that the minimum wage does not provide for minimum subsistence," an Asian diplomat here said. "And beyond that, the companies don't always pay what is required by law. The level of unrest is not reported, but there are lots of reports from around the country of strikes."

"The philosophy of the minimum wage is to make sure the minimum calorie need per day is fulfilled," said Marzuki Usman, who heads the finance and monetary analysis body for the Finance Ministry and was the first chairman of the Jakarta Stock Exchange. "That is the formula."

On April 1, the minimum wage is to rise in many places to 5,200 rupiah, about $2.37.

"There are so many labor strikes," said Apong Herlima, a lawyer for the Indonesian Legal Aid Foundation who specializes in labor cases in Jakarta. "Employers always call the police and they come and interrogate the workers. Then, the workers are fired."

Because Indonesia's press treads carefully around sensitive issues—and social unrest is among the tenderest of subjects—it is difficult to gauge precisely the level of labor unrest. The Government reported that there were 297 strikes last year, although it did not provide the number of workers involved. Independent labor organizes insist the actual number is far higher.

"The number of strikes is increasing," said Leily Sianipar, a labor organizer in nearby Tangerang. "Most factories don't actually pay the minimum wage. Garment factories should pay 4,600 rupiah each day, but there is usually underpayment. So there are strikes. We try to organize workers. The factory owners use the police and the military to crack down. They try to intimidate the workers."

The Indonesian Government recognizes only one Government-sponsored union, the Federation of All Indonesian Workers Union. But most workers and independent activists maintain that the Government union does nothing to represent Indonesia's 40 million workers.

"Since they don't come from the bottom, and they aren't elected by the workers, there is no hope for the Government union," said Indera Nababan, the director of the Social Communication Foundation, a labor education group sponsored by the Communion of Churches of Indonesia. "I don't think over 10 years there has been any considerable change. The workers have no rights here to argue for their rights."

Not far from the Nike factory here, Usep, a lean man of 25, leaned against the cement wall of the tiny room he shares with his 19-year-old wife, Nursimi. Together, said Mr. Usep, who like most Javanese has only one name, the couple earn about $4.10 a day—or $82 a month. Of that, they must pay about $23 for the 6-foot-by-6-foot cement room they live in, with the remainder for their food and other needs.

A single bare bulb dangles from the ceiling, its dim glare revealing a plain bed, a single gas burner, and a small plastic cabinet. Their room, one of a dozen in a long cement building, is provided with one container of water daily. If they want more water, each jug costs 100 rupiah, about 5 cents.

"Of course we're not satisfied with this," Mr. Usep said, his words coming quietly. "We tried to talk to friends about this, but there is no response. Probably they are worried they will lose their jobs."

It is workers like these whom Ms. Sianipar has been trying to organize for the last seven years, a task that entails the constant risk of arrest.

"If we have a meeting, the police take us to the station and want to know if we want to make a revolution," she said, a laugh breaking over her words. "We had a meeting here last week and the police came. So we changed the topic of the meeting, but they took me to the station anyway. The police got angry and banged the table. But they let me go at 4 in the morning. They had the idea that we were doing underground organization."

Still, she admitted, the attitude of the police has moderated somewhat over the years. "Five years ago," she said, "we would have had much more trouble."

Not all foreign investors who use cheap Indonesian labor have ignored workers' complaints. In 1994, the American clothing company Levi Strauss withdrew its orders from a local garment contractor after reports that the management had strip-searched women to check if they were menstruating.

But many factories that manufacture clothing, shoes or electronic goods for American companies are owned by Taiwan or Korean companies, and labor organizers contend that conditions in these factories are much worse than in factories directly owned by Americans.

"American companies are here because they have to pay very little," said an American who works for a private aid organization, but who did not want his name used. "But American companies are not the worst violators of basic working conditions. The Koreans really stand out for poor conditions in their factories."

Outside the Nike factory, Mr. Situmorang continues his vigil, waiting for a court decision on whether he can get his job back. "I've gone to the labor department and the court," he said. He paused and sighed. "I really don't think in the end I will get my job back. This is Indonesia."

COMPARING 104TH CONGRESS TO 103D CONGRESS

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

Mr. KINGSTON. Mr. Speaker, I have a couple of topics we wanted to talk about tonight, and have with me my colleague from Arizona [Mr. HAYWORTH], and we may have others joining us. But what we were going to do is talk about some of the difference between the 103d Congress, the Congress that was here in 1993 and 1994, and contrast that with the current Congress that was elected and began to serve in 1995.

If you look back 2 years ago, which was my first term in Washington, and think about the changes, in 1993 the President had just passed the largest tax increase in the history of the country and then turned around and tried to nationalize or socialize medicine.

At the same time, the bureaucracy did not want to get left out of the action, and OSHA, the Occupational Safety and Health Administration, came up with a proposal that said if you smoke in your own house and you have a domestic employee, then you must have a smoke ventilator in your own kitchen.

The EEOC, meanwhile, came out with a ruling that one of the most dangerous hazards in the workplace today is religious symbols. So if you were working at the Ford plant and you had a "Jesus saves" T-shirt on, or if you had a necklace that had a Star of David, that was offensive. EEOC decided it was time to go after those doggone religious symbols in the workplace. That was the kind of thing that we had going on in the 103d Congress.

Now, contrast that with the 104th Congress. We have a Congress that has cut staff by one-third, reduced its operating expenses by $67 million, and put Congress and all of its Members under the same workplace laws as the private sector.

Now instead of debating should we reform welfare, we are debating how to reform welfare; instead of debating should we balance the budget, we are debating how to balance the budget. And when the crisis with Medicare came that was pointed out to us by a bipartisan committee, this Congress did the responsible thing and acted to protect and preserve it.

This Congress, Mr. Speaker, is night and day compared to that that was the 103d Congress. But we have our criticism. A lot of the criticism comes from the press and its allies over at the White House, Mr. Clinton. What we were going to do tonight is talk about some of the criticism.

Education, apparently Republicans do not have children, we do not care if they get educated or not. Seniors, apparently we all came from test tubes and none of us have moms or dads and we do not care what happens to their Social Security or Medicare, according to the President. Of course, the environment, we want to pave Old Faithful and level the Rocky Mountains.

But what is really going on with these issues, Mr. Speaker? We want to talk a little bit about the environment tonight, we want to talk a little bit about taxes and the middle class, and we will continue through a series of discussions to talk about some of these other issues.

I will yield the floor to Mr. HAYWORTH at this time.

Mr. HAYWORTH. I thank my friend from Georgia. I am heartened by the fact that other colleagues from the majority join us tonight to talk about a variety of topics.

Mr. Speaker, the gentleman from Georgia is absolutely correct. There could not be a greater difference in Government than the difference that exists between the 103d Congress, held captive by the proponents of big Government and more and more centralized planning and more and more taxation and more and more spending, and those of us now in the majority in the 104th Congress, unafraid to offer America, Mr. Speaker, a clear, commonsense approach to Government, an approach which really beckons and harkens back to our founders, an approach typified in the first act this Congress passed, which simply said this: Members of Congress should live under the same laws every other American lives under.

Indeed, as my friend from Georgia pointed out, with a litany of progress on a variety of issues, there is one inescapable fact that we confront at this juncture in the second session of the 104th Congress, and that is the criticism, the carping, the complaining, of liberals, both in this city and nationwide, of the powerful special interests who have as their mission in life the maintenance of the welfare state, the maintenance and enhancement and growth of centralized planning; those disciples of big Government who now would criticize the new commerce in this new majority and paint our agenda, indeed, our contract for America, as somehow being extreme.

Mr. Speaker, it is time to point to this simple fact: The only thing extreme about the agenda of the new majority is the fact that it makes extremely good sense.

I take, for example, the comments of my friend from Georgia, who talked about the fact that in the wake of the 1992 election the incoming President, as one of his first acts, chose to proposed and this Chamber approved by

one vote the largest tax increase in American history. Emboldened by that victory, our friend at the other end of Pennsylvania Avenue worked in secret to devise a plan of government, that is to say, socialized medicine.

The American people said "Enough," and in November 1994 gave this new Congress a mandate.

Mr. Speaker, I can vouch as one who watched with interest my colleague from Georgia and my other colleagues here who served in the 103d Congress and served valiantly to point out the absurdity of the extremism of those who always endorse the liberal welfare state, I saw with my eyes their valiant efforts.

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But more importantly, through the votes of the good people of the United States of America with a new majority, we have moved to do simple things, ironically, the same things that a candidate for the Presidency, who was ultimately elected in 1992, talked about. My friend from Georgia remembers this well. Remember the campaign rhetoric: I will balance the budget in 5 years?

Mr. KINGSTON. Larry King Live, June 4, 1992.

Mr. HAYWORTH. My friend from Georgia offers the attribution. And if he would continue to yield, we would know that the President has had to be persuaded by Members of his own party to offer a phantom budget that would come into balance in 7 years, and using a personal analogy that I am sure my friend from Georgia can appreciate, since he is a physical fitness buff, the budget that the gentleman at the other end of Pennsylvania Avenue now advocates to try and bring our budget into balance would be akin to me saying I need to go on a diet. I think we can all acknowledge that fact. I think I am going to lose 50 pounds over the next 2 months, but I am going to lose 2 of those pounds in several weeks' time, and I will save the 48 remaining pounds for the final 2 days of the diet. It just does not work.

Theoretically, you can write down numbers on a sheet of paper, but what this new majority has offered is a clear, commonsense plan to bring this budget into balance in 7 years, which this President vetoed; a clear, commonsense plan to reform welfare as we know it, which this President vetoed; and now yielding to my friend from Georgia, I would gladly listen to his points.

Mr. KINGSTON. Mr. Speaker, I think it is important really when we do have a dialog to be factual about it. We have been accused of cutting student loans, and yet our budget calls for increasing student loans from $24 to $36 billion. We have been accused of cutting Medicaid, and yet our budget calls for an increase from $89 to $124 billion. Of course, we have been accused of cutting Medicare, but our budget goes from $180 billion to $290 billion. I think it is important that when we talk about this that we divide the facts from the rhetoric.

Now, one of the things that we have been trying to do with our reforms is to balance things, and I know our friend from Michigan [Mr. EHLERS] is here, and we wanted to talk about yes, there are things we are trying to fix, but we are not trying to destroy things, specifically in the environment. I do a lot of camping, and I plan to continue to do a lot of camping. I have 4 children, and my 12-year-old daughter last year started hunting with me. My 10-year-old son is coming along, and I want that environment there for them. I want there to be plenty of species out there. I want the endangered species to be protected. I want private property rights to be protected as well.

Mr. Speaker, I really get offended when the President accuses us of trying to gut environmental legislation when the Clean Water Act, the Endangered Species Act, and the Environmental Protection Agency all were created in the early 1970's under a Republican administration.

Let me yield to the gentleman from Michigan.

Mr. EHLERS. Thank you very much. I appreciate the gentleman yielding me time, and I would like to take a few moments to talk about some Republican ideas on the environment.

As the gentleman correctly pointed out, we have been criticized severely over the past 2 years for some of the actions taken and some of the votes that were held, but I would like to discuss from my perspective, first of all, as a scientist. I am sure the gentleman is aware of my scientific background. Perhaps not all of my colleagues are. But I would just simply mention I have a doctorate in nuclear physics, and I worked in the field for a number of years, both in research and teaching, before I entered the political arena. That does not make me an environmentalist or an ecologist automatically, but it at least indicates that I have the ability to establish fact from fiction when dealing with environmental issues.

Mr. Speaker, back in 1968, I first became concerned about the environment, and I noticed a little notice in the newspaper in Grand Rapids, MI, my hometown, that there was going to be a meeting to discuss environmental issues. I went to that meeting. There were a group of citizens concerned about some pollution that was taking place at that time in various areas of the State, and we formed an organization called the West Michigan Environmental Action Council, and I served as a charter member of that and I have also served on the board.

That whetted my interest in what was happening to the environment, and I had a good deal of interest in government but had never thought of running for office. But when our county developed a severe landfill problem and we had the possibility of raw garbage piling up in the streets, I decided to run for the county commission, and I used that as a means to straighten out the solid-waste situation in my county. It took the work of a lot of other people, too. I do not want to claim the credit for it. But it shows what a citizen activist who is concerned about the environment can do.

The interesting thing is, when I was elected to office and came up with some solutions, I soon lost many of my environmental friends who thought I was going to be a total purist and save the world. The gentleman knows as well as I, from working on issues here, there are many sides to issues and you have to use a reasonable, logical approach. When you are faced with mounds of garbage coming in the gate and the threat of it piling up on the sidewalks, you have to make some tough choices.

But over a period of time, we managed to totally revamp the solid waste disposal system. In fact, I suggested renaming it the solid waste storage system, because the gentleman knows as well as I that if you put it in the landfill, you have not disposed of it; you have simply stored it, and it is still there to create problems in the future. But in any event, we did resolve the environmental issues, and I will not go into all the details of that.

Later I moved on to the State senate. I was made chairman of the Environmental Affairs and Natural Resources Committee, and in the course of several years, with the help of John Engler, who was senate majority leader at that time, now the Governor of the State of Michigan, we got landmark legislation passed and probably had more environmental legislation passed in those 4 years than at any time in the history of the State of Michigan.

Mr. Speaker, I am giving this not to brag about my accomplishments but simply to point out that those people who think the environment is a Democrat issue and not a Republican issue are sorely mistaken. We have different approaches perhaps, but I believe that we can accomplish a great deal in the end on the environment by working together.

Mr. KINGSTON. I want to emphasize what the gentleman is saying by pointing out that President Theodore Roosevelt started the National Park System, and, of course, he was a great Republican at the time.

Mr. EHLERS. He was a great Republican, and also started in some ways the political meaning of the term conservationist. I always love to point out to my friends that the root word for conservation is the same as the root word for conservative and that any

true conservative should be an environmentalist, because it is important for all of us to conserve what we have for the advantage of future generations.

During my time in the political arena and working on environmental issues, I have learned some lessons which I just want to share with my colleagues here. First of all, the environment is extremely important. I can perhaps draw an analogy to something that we discuss here an awful lot: The balanced budget. We approach this, as Republicans, from the standpoint that we want to protect this economy, this Nation for our children and grandchildren. It is simply not right for us to continue to live in debt and expect our children and grandchildren to pay that debt. We want to leave them a promising future and not a huge debt. Well, that is also true of the environment. That is one of the reasons I am a confirmed environmentalist.

It is absolutely wrong for us to leave a polluted country to our children and grandchildren and to other future generations. We have to give them the same resource opportunities that we inherited from our ancestors. We have to give them the same clean environment that we have inherited from those who came before us. That is why the environment is very important to me. I want my children and grandchildren and their grandchildren to inherit a clean country, a clean planet, and to be able to have enough resources to use and enjoy this planet.

Mr. Speaker, another lesson I have learned is that energy, energy and energy use, are probably the single-most important component of the environment. Not everyone realizes this. But once you begin analyzing the sources of pollution, where it comes from, a lot of it is from improper use of energy or inefficient use of energy, and that is something this Congress has to spend more time and energy on, just recognizing the importance of energy and working on the efficient use of energy.

Now, let me make it clear, I am not here talking about energy conservation. Some people confuse those. Somehow they think if they are freezing in the dark, they are helping the environment. Well, that may be true, but it certainly is an uncomfortable way to save the environment. What I am talking about is simple, common-sense efficiency of use of energy which can result in less pollution and less cost and a better environment. Everyone wins in that situation.

Another lesson I have learned is that we have to work together on the environment. This is not a partisan issue. I happen to believe that the current Congress is far too polarized on many issues and sometimes polarized on the environment. But they should not be. The Congress should recognize this is a universal problem. The public certainly recognizes. Eighty percent of them favor a clean environment, and we should work together on this issue and recognize it is not partisan but it is important.

As a scientist, I have also learned that correct science is essential. You cannot ignore science and say there is no problem. You also should not manipulate science to prove your point of view, if it happens to be wrong. The facts are the facts, and you have to deal with it.

But another issue that arises when you are dealing with environmental issues is what I call trans-scientific issues, issues that do not have a ready scientific response because the problems are so immensely complicated, and there we simply have to use our best judgment in trying to come up with a workable solution.

Something else that has developed in science is tremendous improvements in detection of toxic materials or other sorts. But out of that comes a big mistake very frequently. A good example is the Delaney clause, which was passed years ago, said no substance used for human consumption can have any carcinogenic or mutagenic element in it at all. Well, as our detection methods got so much better, and we can now detect one part in a quadrillion, that law no longer makes any sense.

Mr. KINGSTON. If the gentleman will yield on that, I think that that is a real important idea or concept.

How it has been explained to me is that if you take, say, a wading pool that kids are in, not a swimming pool but a wading pool, the little blue, pink plastic kind, and you pour a gallon of pesticide in there, then back in the 1930s, that is what they detect. But today, if you take an eyedropper and into mom and dad's big swimming pool, 34,000 gallons, and you put a little drop of the pesticide in that pool, today we could detect it. Yet in many, many cases, that trace of pesticide is negligible, it is noncarcinogenic, it will not hurt anybody. But because our technology is so advanced, we can detect it, and yet our laws have not kept up with that.

That is what revamping the Delaney clause is all about, and it is so important because there are so many fertilizers that have been taken off the market because of this red tape interpretation of the Delaney clause, and yet other countries are still using those pesticides. So it is affecting us already, and we do need to resolve the issue, again, in a balanced way, protecting the consumer above everything else, but also utilizing the technology for our advantage and not against it.

Mr. EHLERS. Thank you very much. I appreciate that comment, because that is precisely what has happened. I am certainly not arguing for putting toxic materials in food or using the wrong fertilizers or anything like that. I am simply saying that our laws have to keep up with scientific changes, and if you demand a zero tolerance, as we did originally with the Delaney clause, it is a mistake, because there is no such thing in this life as zero risk.

Mr. Speaker, that leads to my next point, and that is, we have to learn as a nation to prioritize, to decide what is good and what is bad, and recognize, everyone has to recognize that there are certain risks to every part of life. For example, it is commonly assumed by many that natural is good. Something that is natural is good. Something that is artificial is bad. That is not necessarily true. For example, peanut butter. Perhaps I should not mention this in the hearing of those who are from Georgia. But peanut butter is a fairly carcinogenic material, and the lab tests have shown that. And if we truly enforce the Delaney clause, we would probably have to ban peanut butter.

Mr. KINGSTON. I do want to ask how you people in Michigan consume peanut butter. I would like to know more about that.

Mr. EHLERS. Well, in fact, everyone consumes peanut butter, and that is why it has not been banned. It is a food staple for so many people. I am simply pointing out that what we have to do is analyze the risks in every situation and prioritize the risks. There is a great deal of concern, of course, in our Nation about toxic waste, but yet, if you analyze in a hard-headed manner what really are the environmental risks we have today, what is the highest environmental risk, you are likely to find that there are many things other than improper disposal of waste that are higher up on the list.

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For example, urban sprawl with its destruction of habitat, and destruction of habitat of course is key in the endangerment of species, and that leads to something that my colleague from Maryland sitting here is an expert on, the Endangered Species Act. These are all very, very complex issues. We have to look at all aspects of these and recognize precisely what the problems are, and what the dangers are, and what this leads to, as my final point in this list before I summarize, and that is what we need is common sense regulation. That is something I have strived for throughout my legislative career.

It is very easy to adopt what is called the command and control approach where you simply say something is bad, let us regulate it out of existence. If you do that without looking at the benefits and the costs, you can go down a very dangerous path, dangerous both in terms of health and our economy.

What we, what I, typically did in the Michigan Senate, when we encountered a problem, I would get representatives

gathered. I would get scientists together, environmentalists, industrialists, everyone possible, get a representative group together, sit down in a room and pound it out, week, after week, after week, educate each other about the problem and come up with a solution.

Mr. Speaker, frankly, that is what I believe that we have to have the Congress doing as well. That really results in good common sense regulation which gives the maximum return on laws and the maximum return on the investment of time and energy as well as money.

Mr. KINGSTON. If the gentleman would yield, I wanted to illustrate that on a true case that happened in Riverside, CA, where the residents in a neighborhood were not allowed to dig fire trenches because it would endanger kangaroo rat habitat. And so fire breaks were not dug, and a fire came. Thirty homes were destroyed, but, in addition to that, over 20,000 acres of kangaroo rat habitat was destroyed.

Clearly, using what you are saying, common sense approach, this certainly does not benefit the home owners, but it also defeated the whole objective, which was to protect the rat.

So we can clearly, without endangering the animal, we can clearly have more flexibility of the law and get away from the command and control which leaves out common sense.

Mr. EHLERS. Let me give an example, too, that occurred in Michigan.

Years ago it was discovered that the Kirtland's warbler in Michigan was an endangered animal. Everyone loved the Kirtland's warbler, a wonderful bird, beautiful song. It was endangered because of some very peculiar mating habits. This bird is very selective about its habitat for mating. It would only mate in jack pine trees which were less than 6 feet tall. As the forest grew, the jack pine were too tall, and the birds would not mate. So they were becoming extinct.

The initial approach suggested setting aside vast acreages so that there be at any given time enough jack pine available so that the birds would nest and proliferate. In fact, a different approach was developed, and that was to use smaller acreage and provide for selective cuttings of timber in such a fashion that there is always ample jack pine of the appropriate height.

The Kirtland's warbler has flourished. It is no longer endangered. It has become a major tourist attraction in that area. So we find that we have improved the habitat for the Kirtland's warbler. It has benefited the community as well, and it is a good example of meeting the needs of the environment, meeting the needs of the endangered species, and yet not with any undue takings, or anything of that sort.

Mr. Speaker, that is what I mean by commonsense regulation. There are ways of handling most of these problems if we simply take the time to address them properly and study them thoroughly, use scientific evidence, and do not get all wrapped up in rhetoric, or taking sides, or polarizing the issue.

Now this will not be true in every case, but it is true in many cases. Sometimes we will have really tough issues, but if we remember our environmental principles of saying the environment is very important, we have to find a solution, let us find the best possible solution, I think it will serve all of us well.

Well, I have given this as an example of a Republican approach to the environment, and I think it is the approach that we have to take here, that we have to follow, get away from some of our polarization.

To summarize, I would make a few key points. First of all, we must protect the environment; we have no choice about that; for the betterment of our planet and for the benefit of our children, grandchildren and future generations. We must do it scientifically. We cannot do it haphazardly. We have to analyze the risks as best we can and not simply say, "Oh, that is a terrible danger, let us address that and ignore something over here that might be even worse."

We must do it in priority order. We have to develop a method of prioritizing the demands, the problems in the environment, so we are putting our money where it makes sense, and we must use common sense in doing it.

But above all, we must do it for our children, our grandchildren and for any future generations. I thank the gentleman for yielding.

Mr. KINGSTON. Mr. Speaker, I thank the gentleman from Michigan.

We have also been joined by the gentleman from Maryland [Mr. GILCHREST] who wanted to comment on a couple of points as well.

Mr. GILCHREST. I thank the gentleman for yielding. I wanted to just say a few things.

Mr. Speaker, we are here talking about a number of issues, one of which is policy relating to environmental issues. The gentleman from Michigan, the gentleman from Arizona, and the gentleman from Georgia, I think, all discussed the direction that we need to move in. The gentleman from Michigan said we need to protect the environment. There is no one in this room that wants to dirty the air, and I do not think there is anybody in this room that says the water is too clean, and I do not think there is anybody in this room that wants to do away with species that we are able to enjoy in the wild so that in years to come they will become extinct.

But there is a way that we can go about doing this in a fundamental manner that will bring more people into the process, and in the long run and in the short run, I believe, we will be more successful.

A hundred years from now, and I am sure that there are people out there listening, Mr. Speaker, that knew people that were alive in 1896. And we will know people that will know people in 2096. I am not sure any of us will know people that are alive in 2096, but our great grandchildren, perhaps our grandchildren, will know people that will be alive in the year 2096. So a hundred-year time span is not very long. And for us to protect the resources that we have right now, I think, is crucially important so that future generations will be able to enjoy the blessings that we have inherited.

Now in order to do that I do not think you can do that from a centralized authority like the Federal Government. We have been accumulating more and more responsibility with the States and the local governments and even private citizens. So, we create environmental legislation which is important for a lot of reasons.

For example, about 40 percent of the pollution problem in the Chesapeake Bay, where I come from, the Chesapeake Bay watershed; I live on the eastern shore of Maryland; about 40 percent of the problem in the Chesapeake Bay is air deposition. That means air pollution, and there is very little you can do about that, and about 60 percent of that air pollution which pollutes the Chesapeake Bay from the air is from automobiles.

We are increasing the number of cars every year; we are increasing the number of people that live in the watershed every year. So we have to begin to find solutions to problems that are difficult to solve because very often, if not always, the problems are as a result of increased population.

The way to do that, I think, is to begin cooperating and consulting with these environmental pieces of legislation, with the State government, with the local government and private citizens developing policies that can actually work. Future generations will not care who cleaned up the pollution, or even who polluted. The fact is they are going to live with what we do.

One other comment about clean air and clean water. Very often the Republicans are tagged with causing gridlock in Washington, with causing partisan politics in Washington, especially when it relates to environmental issues. I would just like to send this message, and that is gridlock. Arguments in Washington are not bad. You do not see the North Koreans arguing. You do not see gridlock in Cuba. What you see here in Washington is an argument about the best way that America should move forward. These arguments are actually bringing out more information. In fact, I would say that the people with the most credibility in

Washington right now are not the ones with long years behind them. They are not the powerful committee chairmen that might have been elected in the 1950's. We do not have that anymore.

Mr. Speaker, the people with the most power in Washington right now are the ones with credibility, and people with credibility are people with information. If we can begin to share information from Member to Member and develop legislation so that we can share responsibility, cooperate with the States, have consultations to do the best that we can with environmental legislation, then I think we are going to move forward to protect the environment.

Mr. HAYWORTH. Mr. Speaker, if the gentleman will yield on that point, first of all, I have the utmost respect for my colleague from Maryland. We serve together on the Committee on Resources. It is no secret that we may not agree on every single jot and tittle with reference to policy.

Yet at the same time I am heartened by the fact that the gentleman from Maryland, as well as my friend from Michigan and my friend from Georgia, all recognize this central theme, that it is not centralization of power or a one-size-fits-all philosophy that oft times is outdated with reference to new technologies that develop, but, instead, the realization that there must be a spirit of conciliation, a spirit of cooperation and the notion that is really quite common sensical when you think about it, the acknowledgment that Phoenix is not the same as Philadelphia, that Monroe, LA, may not be the same as Grand Rapids, MI, that Savannah, GA, may not be the same as St. Louis, MO. There are different issues that confront us all.

So in that spirit, even while there may be some disagreements on how we get to a cleaner environment, how we recapture for the American people the true spirit of conservation, let us start with that premise, and also what the gentleman from Michigan talked about, and that is the sense of balance that must be there, preservation of the environment, a true spirit of conservation, and at the same time a preservation, if you will, of the fragile rural economies this Nation has; for example, in the Sixth District of Arizona.

So it is a challenge. It is not easy to face up to many of these questions, although common sense will rule the day, I believe, and we will ultimately come to some agreements. But let us also categorically reject even amidst the gridlock that my friend from Maryland talked about this need on the part of some within this body and at the other end of Pennsylvania Avenue to try and demonize those who will take another approach, indeed along the same lines of the school lunch debate, really the school lunch scare, and with reference to the mediscare debate. I have yet to see starving children in the streets or the elderly thrown in the streets. And by the same token, I do not believe the vast majority of Americans are turning on their taps and drinking sludge.

So let us articulate up front that, while there may be some slight differences in approaches, the bottom line remains true for members of the new majority. We want to find constructive, common sense solutions that preserve the environment, that preserve the economy and do exactly what the gentleman from Maryland talks about, offers an environment to generations yet unborn that is clean and that may be used, not only for emotional well-being, but for economic well-being for that is the challenge we face in the last decade of the 20th century.

So I am heartened by my friend's remarks and look forward to working with him, even acknowledging some differences along the way. I yield to my friend from Georgia.

Mr. KINGSTON. What is important though is we bring our laws up with our technology and bring our laws up with other levels of government to realize that when the Environmental Protection Agency started in the very early 1970's, it was just about the only and certainly the premier environmental protection agency in the country. Today in Georgia, in Maryland, in Michigan, and Arizona you have narrow groups. You have your own Environmental Protection Agency, which probably is about 10, 15 years old at this point.

□ 2145

Mr. Speaker, I had the honor to speak to the Association of State Environmental Protection Divisions a couple of months ago. I was a little bit worried because I was afraid that, well, I do not know if I am walking into a lion's den or not. They said, "We are ready. We can handly this. We can probably do a better job of attacking pollution cleanup because we are closer to the sites, we can work with turning, or the State legislative, we can get it turned around. Do not run from it, but do not get in our way, either." I think that is important.

Mr. EHLERS. Mr. Speaker, if the gentleman will yield, I would just like to comment on this little discussion, and especially commend the gentleman from Marylandy [Mr. GILCHREST], who is, I believe, without doubt, the wetlands expert of the Congress. He knows a great deal about it, and has made some very important contributions to that.

As I mentioned earlier, Mr. Speaker, I have been involved in the founding of the West Michigan Environmental Council. That group plus another group were instrumental in making Michigan the leader in writing State laws, in many cases before any other State or the Federal Government had. We wrote a wetlands law in Michigan over two decades ago. Michigan still is the only State that has been delegated authority by the EPA to administer its own wetlands law, and is not subject to Federal wetlands law.

It has always puzzled me why other States have not done that because, precisely as the gentleman from Maryland pointed out, each State is often better able to judge the situation within their State. Michigan is a very wet State. We are surrounded by Great Lakes, we have many inland lakes, we have many wetlands, and we have developed a wetlands law that works very well. I do not want to imply that it is without trouble and without dispute, but I can tell the Members from my experience in working with that and slogging through wetlands and working with the laws and working with the people, we managed to work things out.

Mr. Speaker, I was astounded when I came to Washington and discovered the antagonism toward the EPA in most parts of this country with regard to wetlands. I think part of it is, as the gentleman from Arizona mentioned, we have tried to pass one-size-fits-all legislation, and certainly the wetlands requirements in South Dakota and Arizona are different from those in Michigan and in Maryland. I think it is important for us to recognize that. It is also important for the States to take on that responsibility, as Michigan has done in passing its own wetlands law.

Similarly with takings laws, that is a real legal morass, and I regret the takings legislation that passed this body earlier this year, because I think, again, it was an attempt to be a one-size-fits-all, and it certainly did not fit my State. We have struggled with that for years with the wetlands law, with the Sand Dune Protection Act. We have come to a reasonable working arrangement on that, and keep working on trying to improve it.

Again, realize that the real objective is to protect the environment and work in a common-sense fashion that works, that gets the job done. When you were talking about clean water and clean air a moment ago, I was reminded, when I moved to Grand Rapids, Michigan, in 1966, the Grand River, which was a beautiful river flowing right through downtown, was filthy. No one would swim in it. No one boated on it. No one would think of catching fish from it. Now the river is clean enough so it has become a major fishing attraction. People boat on the river, and some even dare to swim in the river.

So we have made considerable progress in the past couple of decades, and I think it is a tribute to the progress we have made. We should never forget that. We have cleaned up most of the biological pollutants in the water and in the air. Now we are working on the chemical pollutants. It is a

much tougher problem and much more scientific in nature. We have to, as I said earlier, use good science to do that.

Mr. KINGSTON. Mr. Speaker, as the gentleman points out, though, the need for honesty and integrity in the debate is so important. We have a Superfund bill we have been trying to get reauthorized now for 2 years, and while we are speaking, only about five of the national priority sites get cleaned up each year. Only 12 percent of the polluted national prioritized sites have been cleaned up, after 15 years and $25 billion of Superfund law. It is broken. Let us fix it. There is going to be a little bit of disagreement between the manufacturers in the private sector and the environmental community, but I would suspect there is still 75 percent or 80 percent of the issue that could be moved forward right now.

Mr. Speaker, I am very frustrated by the fact that in Washington, we always have to have this debate from both sides of any issue, "The sky is falling," and the other side wants to accelerate the fall, join me in this fight. It is very difficult in that kind of atmosphere to have an honest debate.

I know the gentleman from Maryland has been in the very center of some of these things.

Mr. GILCHREST. Mr. Speaker, the gentleman from Georgia is correct about the Superfund situation. I think this Congress has begun the process of resolving the vast differences in that complex piece of legislation so we can have as our priority spending the money on cleanup costs rather than litigation costs.

I would like to mention just one thing to the gentleman from Michigan. I know Michigan has assumed the enforcement of the Federal wetlands regulations, and Maryland is about to do the same thing. I would like to make a comment on wetlands, the Endangered Species Act, and these other pieces of environmental legislation which are sometimes very emotionally discussed.

In the State of Maryland, as a result of the Chesapeake Bay improving and having clean water, much of that is attributed to wetlands filtering out a good deal of the nitrogen that comes in as a result of farming, or filters out a variety of other pollutants that get into the groundwater and spawning areas for fish, but wetlands is key to the economic boom in Maryland. There is about $2 billion worth of tourism, commercial fishing, recreational fishing, hunting, boating that comes to the State of Maryland as a result of the type of environment we have, so wetlands regulations help us to manage our resources.

The Endangered Species Act, which in the State of Maryland is actually stricter than the Federal Endangered Species Act, that might cause some alarm for some people, but for the State of Maryland, it assumes that our rural areas, through certain management tools on the Federal, State, and local level, when we work in a pretty cooperative consulting fashion, ensures that our number one industry, or number one and number two industries in the State of Maryland are fishing, tourism, and agriculture. To save these particular industries, we need to work together and now apart.

We do need to recognize the differences in a regional way, but people in Louisiana want clean water, as the people in Maryland want clean water, so it is the consulting process. It is getting involved from all the different levels, including elected officials getting involved in the consulting process.

I just want to close with this one point, Mr. Speaker. I read recently a book from a Montana mayor, and I can't remember his name, the mayor of Missoula, Montana, wrote a book about community and place, and how we can reconcile the difference, especially that seem to become political differences. The essence of the book, without going into it, and I recommend the book to people to read, it is called "Community and the Politics of Place," I think that is the name of it. But the essence of the book is, he said that America used to be a frontier. People used to be able to go places if they did not like where they were. if they had religious differences or had any kind of quarrel or wanted to seek adventure, they could go to the frontier that seemed endless. Now America does not really have a frontier. America is filling up with people, and we are a prosperous Nation, so the next frontier will be the frontier that is based on our ability to consult, to cooperate, to use our intellectual skills to manage the limited resources that we have so that they will still exists for future generations. We cannot do that and argue.

My son told me a couple of years ago when he was in high school, when he sort of was getting ready to look at the world, he said the world to him seemed like two people in a big truck driving down the highway at 90 miles an hour, and the highway ended at a huge precipice, a 10,000-foot drop, and the people were not only not paying attention to where they were going, they were arguing.

So if we are going to be legislators that are going to deal with the problem of the Nation, we have to, together, set the example so we can cooperate here and disseminate that sense of policy to the rest of the country.

Mr. EHLERS. Mr. Speaker, if the gentleman will continue to yield, I simply wanted to comment that I agree wholeheartedly with that. I think, getting back to the theme of what we have been talking about, we are simply trying to demonstrate that we are Republicans are trying to develop a responsible approach to the environment here.

I appreciate the comments that have been made. I thank the gentleman from Maryland especially for his views on wetlands, and obviously, it is very similar to Michigan. There is just one minor correction, by the way. Michigan has its own wetlands law, whereas Maryland and New Jersey will administer the Federal wetlands law.

It was interesting, when I was in office there I heard a lot of complaints about the wetland law, and one legislator proposed repealing the Michigan wetland law. The two groups that argued the most against that were the sportsmen, who think the wetlands law is wonderful, because Michigan has great hunting and fishing and so forth, and business. They said, "We know this law. It works for Michigan. We do not want to be under the Federal law." That shows how each State can design the law that accomplishes the goals better than we can with a one-size-fits-all approach from Washington.

I think we have to set a minimum standard, but encourage the States to go beyond that. As Republicans who are talking about devolution of power, of letting the people in the communities have a say, I think this fits in beautifully with that.

Mr. HAYWORTH. Mr. Speaker, if the gentleman will yield, I appreciate the gentleman making this point, and I simply want to make this point that I think it transcends almost every debate we have here, and it is a philosophical point of view that I think rings true with the majority of the American people.

As you relate to us the experiences of Michigan, as our colleague from Maryland relates the experiences in his State, certainly none among us would argue that at certain time in our history, the Federal Government has played a genuinely worthwhile role in serving as a catalyst to deal with some dramatic issues, but history does not occur in a vacuum.

Therefore, the challenge for us at this juncture in our history is to ask this question: Who do we trust? Do we trust the American people, do we trust local officials, elected by the people close to home, officials elected to State government, the State agencies that have grown up in the last 25 years to confront these problems, or do we always and forever turn these problems over to Washington bureaucrats to offer a Washington solution which may fit Washington, DC, but which might not fit Washington State? that is the essence of the debate that we have on a variety of topics.

I thank the gentleman from Michigan for drawing that distinction yet again when it comes to environmental legislation, the true meaning of conservation, and what it will mean to protect and preserve the environment as we move into the next century.

Mr. EHLERS. I would simply say, Mr. Speaker, we need both. Take clean

air, for example. We have to have a Federal law, because the transport across distances is so huge, but we also need local law to regulate how this is applied locally, and do it in a commonsense fashion. Only with everyone working together are we truly going to achieve a clean environment.

THE URGENT NEED FOR MEANINGFUL TAX REFORM

Mr. KINGSTON. Mr. Speaker, we wanted to touch base on the tax situation, with April 15 approaching quickly. I will yield to the gentleman from Arizona on this, but I want to start off with a couple of fun facts, first, about out tax system, because if you are like many of your American friends this last week or two, you took time filling out your tax form.

On an average, it takes 12 hours for you and your family to fill out your tax forms to the degree that you can, and then you take it to your accountant, and pay anywhere from $150 to $700 or $800, depending on where you are and how much you own and so forth. If you are a small business, it takes you 22 hours.

Here is a statistic that I really like, Mr. Speaker. The IRS has 480 tax forms, and 280 of them are forms that tell you how to fill out the other forms. That is absolutely absurd. The West Publishing Co., one of the official publishers of the Federal Tax Code, published the 1994 Tax Code in two volumes. Volume 1 contains sections 1 through 1,000, and it is printed in 1,168 pages. Volume 2 is page 1,500—1,500. We have a 1,564-page Tax Code, Mr. Speaker. It is absolutely absurd. The need for tax reform is urgent, it is great, it is right now. It is appropriate to look at while we are trying to balance the budget.

Mr. Speaker, I yield to the gentleman from Arizona [Mr. HAYWORTH].

□ 2200

Mr. HAYWORTH. I thank my friend the gentleman from Georgia.

In this Chamber where it is oft decried, the level of verbosity that often emanates within this Chamber, you have not seen words, Mr. Speaker, until you take a look at the Tax Code. The gentleman from Georgia talked about it. By wording, the Tax Code as it exists today consists of 555 million words, 555 million words in the last 10 years. In the wake of tax reform of a decade ago there have been 4,000 changes, resulting in the verbiage piling up.

Mr. Speaker, if you think you are paying by the word, that is certainly the case. Because in the wake of our last tax increase, the largest tax increase in American history, the President of the United States, who talks about tax breaks for the middle-class, offered a tax increase so regressive that with the retroactivity attached to it, people who had passed away still owed more from beyond the grave due to retroactivity.

It is the height of absurdity when the American family in 1948, an average family of four, surrendered about 3 percent of its income in taxes to the Federal Government, to where last year the average American family of four surrendered virtually one quarter of its income in taxes to the Federal government. That affects everyone.

Mr. Speaker, we need to make a change. We have taken a look at priorities and we see that clearly, in the wake of these expenditures, Washington's priorities have totally gotten out of whack.

Mr. KINGSTON. What is so important is that the average family in the 1950's paid 3 percent and today pays 24 percent in Federal income taxes. When you add in the other taxes, State and local taxes, the average middle-class family pays about 25-percent taxes.

I had an opportunity to talk to a driver with UPS, United Parcel Service, in my district. He said, "My wife works. She teaches school and has a good job, and I get a lot of overtime driving this truck. We have got three kids, and at the end of the month we do not have anything because it goes into washers and dryers and taxes and regulations and so forth."

That is the story of the middle-class American family today. All they are doing is working for the government. Then we turn around and make them fill out a tax form that is absurd, which they cannot do.

Mr. Speaker, you are on the Committee on Ways and Means. I bet you most Members of Congress cannot even fill out their own tax form. I believe that is real important. If we cannot do it, we who are setting the law, what do we expect of the American people?

Mr. HAYWORTH. If my friend would yield, there is something fundamentally wrong when the average American family pays more in taxes than on food, shelter and clothing combined. There is something wrong when Washington sends its resources to pay for 111,000 IRS employees, and yet can only have 6,700 DEA employees and only 5,900 border patrol employees.

What does that say to the American people? The Washington bureaucrats are saying, "Oh, we do not have time to staunch the flow of illegal drugs. We do not have time to guard the borders, though that is one of the prerogatives of the Federal Government as mandated in the constitution. But we do have time to audit you, Mr. and Ms. America. We do have time to cast aspersions on your honesty. We do have time to try and find our way into your pocketbook again and again and again and again."

Mr. Speaker, there is nothing ignoble or dishonorable about hard-working American taxpayers hanging onto more of their hard-earned money and sending less here to Washington, DC. Indeed, in the days to come once again, I know my friend Georgia disagrees with this notion, we extend our hand in cooperation to the minority. We extend our hand in cooperation to the President of the United States.

We have talked the talk for too long. Now, Mr. Speaker, it is time for us to walk the walk. We voted that way in this Chamber. We hope that those who would give lip service to these ideals would join with us and get about the business of governing. The American people deserve no less.

Mr. KINGSTON. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, we have worked to repeal the 1993 Clinton tax increase on Social Security recipients. We have worked to increase the earnings limitations for American seniors. We have worked to increase the estate tax threshold from $600,000 to $750,000, and we have worked to end the marriage tax penalty and the capital gains tax, and the President vetoed that. Along with that, he vetoed a $500 per child tax credit for middle-class families.

Right now in America households all over this land, from Maine to Miami to California, you can reach in your pocket and say here is $500 that was a dividend for my work this year, but it was vetoed by this President of the United States.

We are not going to stop, Mr. Speaker, and talking about taxes is going to take a lot more time. We have with us the gentleman from California who wants to talk about another waste of manpower and money, and that is illegal immigration, so I want to yield to him.

Mr. BILBRAY. Mr. Speaker, I would first like to echo my colleagues' comments. My wife runs our family business which happens to be an income tax business. I heard a lot of talk in 1993 that the Clinton tax increase was only going to be a tax on the rich and the seniors who were wealthy. Well, I do not think the Members of the House really realized what they were doing. I will say this, and I need to say this so that I can go home to my bride in California this weekend.

The fact is that she showed me one individual and talked to one individual who was a classic example of the so-called tax on the rich. This person made less than $14,000 a year, but because he happened to be a Latino who had very strong religious beliefs, he did not divorce his wife. He was married and filing separate. Eighty-five percent of his Social Security is being taxed.

You remember in 1993 they told those of my colleagues who were here, this is only a tax on the wealthy Social Security recipients; it is not on the poor. Well, this man would like to ask: Would somebody in Congress tell him how rich he is?

I think that that is one issue that is not discussed enough and we need to

start bringing it up. As somebody who is involved in doing tax returns for the working class in my community in San Diego, Mr. Speaker, I hope to bring up more of those items, talking with the constituents who are being taxed by this Congress under the guise of taxing the rich, when it is the working class that is getting harmed by this unfair and unjust legislation.

Mr. Speaker, another item that is unfair and unjust is that we have been trying to address this last week the fact that this Government of the United States has in the past rewarded people for coming across the border and breaking our immigration laws and then getting welfare, free education and free medicine, to the point where it is costing the State of California immense amounts of revenue, and the Federal Government has been walking away from this expense. The people in States across this country are paying this expense because the Federal Government has ignored it.

Mr. Speaker, with the passage of H.R. 2202, Mr. SMITH's bill,-we are finally now seeing this Congress recognizing its responsibility under the constitution to address the fact of illegal immigration. But there is one part of the illegal immigration issue, Mr. Speaker, that has not been addressed.

Mr. Speaker, I will just ask that we all consider the fact that giving automatic citizenship to children of illegal aliens is a problem we need to address. My bill, H.R. 1363, will address that, and we hope to work on that in the very near future.

WOMEN, WAGES, AND JOBS

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentlewoman from the District of Columbia [Ms. NORTON] is recognized for 60 minutes.

Ms. NORTON. Mr. Speaker, this special order on women, wages, and jobs comes during Women's History Month, but more pertinently it comes because finally the issue of declining wages in our country has made it onto the national agenda.

The underlying discontent that has been there for two decades have come forward, and we see it in the Republican primaries. It is interesting that at least since the early 1980's many of us have been pointing to this un-American phenomenon where the stock market does well and people do poorly. Somehow or other it never caught on. There has been some attention paid to it as it affects men because the manufacturing sector has been so decimated as jobs have moved offshore. Now that the country is beginning to recognize that something different is happening, it is important that we look at all of those of whom something different is happening, and that is why I choose to raise it in relation to women.

As a former chair of the Equal Opportunity Employment Commission, I have long had an interest in discrimination against women. More is at work here than simple discrimination, however. What is at work here is the nature of our economy itself, some historic changes that are underway that reflect upon the kinds of jobs that are being produced and who gets those jobs.

The effect is felt in the widest gap in incomes we have seen since we have been keeping these records. We need to look at how this phenomenon affects women in particular because with the change in the economy there have been the greatest changes in women in the work force.

I want to point to a bill I have introduced, the Fair Pay Act, which in its own way is to the 1990's or seeks to be to the 1990's what the Equal Pay Act was to the 1960's.

This body in 1963 passed the Equal Pay Act in order to close the wage gap between men and women, and the Equal Pay Act has done a very good job for its limited mandate. Essentially, it was to look at people doing the same job and being paid differently for it. Some progress has been made, partly because of the Equal Pay Act, so that we have gone from about a 62-percent gap now to something like a 71-percent gap. That is the good news until we hear the bad news.

The bad news is that the closing of the gap itself reflects an alarming decrease in male wages as well as the new presence of highly educated women or highly skilled women in entry-level positions only. In other words, the average woman is just where she was. The average woman is experiencing what the average man is, stagnant or declining wages. But at entry levels, highly educated women like doctors and lawyers make the same as men, although those women have a gap that develops within their profession after the entry level.

I am this evening interested in the average woman, the silent worker out there every day. The Fair Pay Act is directed specifically to her and to part of what she is experiencing.

The Fair Pay Act simply says if you are doing comparable work you ought to get paid the same. The Fair Pay Act says if you are an emergency services operator, that is a female-dominated profession, you should not be paid less than if you are a fire dispatcher, that is a male-dominated profession.

Under the Fair Pay Act if you are a social worker, you would not earn less than a probation officer simply because you are a woman and he happens to be a man. Should not the market set the rates? That is precisely what the Fair Pay Act tries to do, even as the Equal Pay Act intervened in order to have the market set the rates.

Too often the habits of employers over the decades have built in distortions to the market. Women and minorities paid the price in reduced wages.

I want to emphasize that the Fair Pay Act that is H.R. 1507, would not, in fact, intervene into normal market processes, and that has been the problem people thought they saw in comparable worth work.

□ 2215

My bill would allow the extraction only of the discrimination factor, and the burden would be on the plaintiff, on the woman, as is always the case in discrimination cases, to show that the difference in wage she is experiencing is because of discrimination and not because of unbiased market factors.

I offer that this evening for inspection as one approach to the problem I raise in women and jobs.

I want to move to another remedy as well. We are finally beginning to talk about raising the minimum wage. Here is a subject covered with my mythology. If we are going to talk about women workers, we must talk about the minimum wage. Indeed, if we are going to talk seriously about welfare reform, we must talk about the minimum wage. Who are we talking about when we talk about a minimum wage worker? Some Americans would say, well, I think you are talking about a bunch of teenagers working at McDonald's. The typical minimum wage worker is a white woman over 20 years of age, likely to live in the South, who has not had the opportunity to attend college and who works in a retail trade, agriculture, or service job. That is who the minimum wage worker is. She is your wife and you daughter. She is your aunt and your young friend who has just graduated from high school.

Most minimum wage workers are women; 5.75 million women are paid between $4.25 and $5 per hour. That means 17 percent of all hourly paid female workers earn the minimum age and only the minimum wage. Most female minimum wage workers are not teenagers. They are adults. And when we say women are earning the minimum wage, we are talking about almost certainly the guardians of poor children. Often, most often, these minimum wage workers are women who are raising the poor children.

Now, Mr. Speaker, I am not here talking about the favorite subject of this body, deficit reduction. The minimum wage will add not 1 cent to the United States deficit. What it will do is take 300,000 children immediately out of poverty, 58 percent, almost 60 percent, of minimum wage workers are women. Nearly half of full-time jobs, and the statistics will show that many, if not most, of the others wished they could get full-time jobs, but of part-time minimum wage jobs 15 percent are black, 44 percent of minimum wage workers are Hispanic. What would we

do, what would I have us do? Simply to raise the minimum wage to $5.15 per hour. Is there anybody in this body who would think that is too much for them to earn or too much for anyone they know to earn, too much for any constituent of theirs to earn? It would not have to come in one fell swoop. It could go to $4.70 an hour by July 5 this year and to $5.15 an hour by July 1, 1997.

Understand who we are talking about when we say the minimum wage worker. We are talking about the traditional way in which we have set a marker of what it means to be an American below which you shall not be forced to work. We are talking about a person who works typically 40 hours a week, 52 weeks a year, and earns $8,840. The impact of lifting the minimum wage would be that immediately 300,000 people, I want to correct what I said before, 300,000 people would be lifted out of poverty; 100,000 would be children. Only one-third of those affected by such an increase would be teenagers, because almost 70 percent of minimum wage workers are 20 years old or older. They are adults going out to work every day with less than a poverty wage. That is who they are.

Since 1979, we have found that 97 percent of the Nation's increase in wealth has gone to the wealthiest 20 percent. The remaining 3-percent increase in wealth is left to the other 97 percent of the Nation's workers, and who has taken the brunt are those at the very bottom.

The value of the minimum wage has dropped 30 percent, my colleagues, since 1979. I want to put this graphically to you. I want us to face who we are talking about. Let us look at a family of four and consider what would happen if the sole earner is a minimum wage worker above the poverty line. The current poverty line for a family of four is $15,600. Now, if that family of four has one worker earning the minimum wage, $4.25 an hour, working full time the year around, about $8,500 a year, that worker would receive a tax credit, thanks to legislation passed by this body, if we do not cut it terribly much, and there are proposals to cut it, but today that worker would receive a tax credit of $3,400 under the 1996 provisions of the earned income tax credit.

That worker is so poor, that worker, single wage earner in a family of four, that she could collect food stamps worth $3,516. She would nevertheless still pay $650 in payroll taxes after qualifying for benefits and paying her payroll taxes. This family ends up $834 below the poverty line.

This is America, my friends. We cannot continue to send people to work every day, working hard, working in work you do not want to do and I do not want to do, and have them come home below the poverty line. That is dangerous. You are hearing the rumblings of it out there in the Republican primaries. Answer the call now.

In every State there will be large percentages that will benefit from an increase in the minimum wage. In my own city, a fairly small percentage, 7.8 percent, would benefit, and as I look at what would happen in some of the States, I am simply amazed. Idaho, almost 14 percent of the workers would benefit. In Louisiana, almost 20 percent of the workers would benefit. In Michigan, 10.5 percent; in Mississippi, 17 percent of the workers would benefit. In North Dakota, 18.2 percent of the workers would benefit.

I see my good friend and colleague from Georgia, Representative MCKINNEY, here. In Georgia, 11.9 percent of the workers would benefit. Very substantial percentages all across the United States, regardless of sex, regardless of your preconceptions about the place, regardless of whether you think of it as a poor State or a rich State, you have substantial proportions of the population that would immediately benefit from a raise from the minimum wage, not 1 cent added to the deficit, a sharing of income of the kind that has been typical in the United States that as companies become more prosperous there is a greater sharing of the profits with the workers. That is what has not been happening. That is why we are having a growing income gap.

The number of African-Americans who would benefit is important to note. Seventeen percent of all hourly paid African-American workers are minimum wage workers, and most of these low-wage workers are female. Twenty-one percent of all hourly paid Latino workers are minimum wage workers. And Latino women are especially likely to be paid very low wages; 25 percent of hourly paid Latino women earn at the minimum wage.

Now, I want to examine the critique of an increase in the minimum wage that is most often made, and that is that you reduce job opportunities. The answer is that that is not the case. I refer to nearly two dozen independent studies that have found that the last two increases in the minimum wage had a insignificant effect on employment. The Nobel Laureate economist Robert Solow recently told the New York Times that the evidence of job loss is weak, and I am quoting him, "The fact that the evidence is week suggest that the impact on jobs is small." Prof. Richard Freeman of Harvard said the following: At the level of the minimum wage in the late 1980's, moderate legislative increases did not reduce employment and were, if anything, associated with higher employment in some locales. We remember the 1980's, do we not, when there was a plethora of minimum wage jobs breaking out all over in this country? Minimum wage seems not to do what the conventional wisdom tells us. Kind of look at the facts. We have got to look at the studies.

There is also the myth that the blow will be to small businesses. First of all, 90 percent of workers in small business already earn more than the current minimum wage. Do not think that people in small businesses are simply looking for the cheapest labor they can find. They are looking for the best labor they can find. They have got to have people who give them the biggest bang for the buck. In any case, the law does not apply to businesses that do not have annual sales in excess of 4500,000 or employees that participate in interstate commerce. You have got to be in that category even to be covered. That means that many small businesses are simply not affected by the minimum wage at all. Ninety percent of workers in small businesses earn more than the current minimum wage. Indeed, half of minimum wage workers work in firms with more than 100 employees. That is cheating workers.

What this means is, we are giving a break to moderate and larger employers, because we are allowing them to hire people at minimum wage and keep more of the profit for themselves and they pass that on to us, ladies and gentlemen, because those people qualify for supplemental welfare, those people qualify for the supplemental benefits, food stamps and the rest. So go right ahead the way you are doing it, because what is means you are doing when you are allowing people to pay the present minimum wage is your are subsidizing that employer yourself. That is us, we, the taxpayers.

□ 2230

That is us, we, the taxpayers. Let them pay for the labor. Business is doing well. President Clinton has had an extraordinary effect on the stock market because of the way in which he has reduced the deficit. That is one of the factors that is yielding large gains in the stock market.

Where are those gains reflected in the pay envelope of the minimum wage worker? Why should the taxpayers subsidize that worker with food stamps or other supplements, rather than have the employer, who has profited from that worker pay? Let that employer pay.

This line is stark enough so that even without it being a big poster, I think I will make my point that a higher minimum wage does not cost jobs. This is the job level in 1991. This is the job level in 1996 since the last minimum wage increase. What we are seeing is there has been an extraordinary rise in jobs.

By the way, many of these are part-time, temporary, low-wage jobs. Whatever happened to the notion that if you raise the minimum wage, you will not

make jobs? This is what has not been proved. This is the myth that is helping to sustain the minimum wage.

This is the myth that means the taxpayers are supplementing people who should be paid for their labor by the companies, almost all of them larger companies, or certainly medium-sized companies at least for whom they work.

Let me take a pause now, because I am very pleased to see that the gentlewoman from Georgia has come to the floor. I am very pleased to welcome the gentlewoman from Georgia, who always does her homework, and who has joined me in this special order.

I yield to the gentlewoman from Georgia, Representative CYNTHIA MCKINNEY.

Ms. MCKINNEY. Thank you very much. I certainly want to commend you for the role that you play in terms of being a role model for the newer Members and for people like me who have long looked up to you and now find myself working right next to you. I just want to say thank you for your leadership.

I have got some posters that I think punctuate what you have said. Here I have a chart that shows how from 1979 to 1995 the wages of men have decreased. The wages of women increased, and then began to decrease. The gap that was closing between men and women was basically because the wages of men were dropping.

Then, of course, as you have pointed out, the income gap. We have not seen the kind of income gap that we are experiencing now since the days just prior to the Great Depression. Here we see that the top 25 percent receive more than 95 percent of the income growth. The other 75 percent of Americans receive less than 5 percent of the income growth. Meanwhile, the top 5 percent of American families got more than 40 percent of America's growth.

Just as you so correctly pointed out about the impact that the President's policies have had on the deficit, the decrease in the deficit, and Wall Street, Wall Street sizzles, and Main Street fizzles.

I have another chart. Again, as you so correctly point out, the subsidies, the social safety net that we have painstakingly constructed or woven, is there because there are some corporations that are getting away with not paying their fair share. Certainly they are not paying their workers what they are worth. What we have seen here just in terms of the corporate income tax is that corporate income taxes have gone down, and, of course, individual income taxes have had to take up the slack.

In the previous special order we had one of our colleagues discussing about the diet that he was on, trying to lose 50 pounds, and he was going to lose 2 pounds and then save the other 48 pounds for the last 2 days of the diet.

Well, I think that is about the way the Republicans have run this ship of state, because they in their budget put off the hard decisions until the out years. But the Progressive Caucus has come up with a budget plan that does not put off the hard decisions into the off years. It goes right in by cutting defense spending and cutting corporate welfare. We demonstrate that you can have a downward trend, a steady downward decline in the deficit, if you make the hard choices, and you make them early.

So basically I would just say that when the economy is bad, nothing else is good. The work that you have put together with the legislation will improve the lives of working women all over this country.

I come from a family where my mother worked. She worked for 40 years at Grady Memorial Hospital as a nurse. I am a single female head of household, and I am a working woman. I suspect that if my son grows up and marries, as I suspect that he will, he will also marry a working woman.

We just want to make sure that the leadership of this country is aware and sensitive of the needs of working women, and that is what your legislation provides for.

I would also say, as the only one in the Georgia delegation, that after we were elected, we had women come to our office for issues that ranged from access to credit, to child support enforcement, to sexual harassment, and even something as simple as a role model who showed to them that, yes, it could be done.

So just as we plead with our colleagues to make sure that the plight of working women is not forgotten, we plead for ourselves, and I commend you for your legislation and the work that you do as a role model for the rest of us.

Ms. NORTON. I want to thank the gentlewoman not only for those very kind remarks, and coming from her they are treasured, but also for that very compelling statement. I very much appreciate her coming forward, particularly this late in the evening. But we have got to use what opportunities we have in order to make these important points at this critical time.

Let me continue then. What has happened to women? The gentlewoman from Georgia indicated that women were in fact beginning to improve, and that is true. But women have now been caught in the same spiral that has dragged men's wages down, and that is why we have really got to step up and take notice.

Until the 1970's women came into the work force drawn there by rising real wages. In order words, they came into the work force because they could earn more money and they were drawn to the work force by virtue of the lure of greater income.

Since the 1970's, there has been sluggish wage growth. Still they come. They come because they must. They come even though the wage gap for them, for the average one of them, is not closing.

Now, it is very interesting, in the 1980's we did see a rather precipitous narrowing of the wage gap. It is not altogether clear why, but we do know this, that 50 percent of the gap remains unexplained. We believe that possible explanations may be occupational segregation, women's jobs versus men's jobs, you are in a woman's occupation. That has typically had low-wage discrimination. Women having secondary rather than primary jobs, internal labor market influences.

In any case, the figures tell you about the creation of a whole new work force in our lifetime. In the 1950's, 30 percent of the work force was women. Today, 45 percent of the work force is women. In other words, we have come to the point where half of the people who go to work every day are men and half of the people who go to work every day are women. Yet the reward of wages is simply not there for the average woman.

Indeed, if we look at where women are employed, the lower the earnings, the greater percentage of women in that occupation. That is whether they are making goods or performing services.

Why are women working? I can tell you this much, they must be working, because there is no other choice, because half of all married women with children under 3 are in the labor force. Few women, unless they are highly educated and making a lot of money, and that is rather few, are going to go to work if they have a child under 3. In the 1970's, it was not half of all married women, it was a quarter. That means we have doubled. They are there because they have to be there. They are there because they are single head of household, or they are there because one wage earner cannot do it any longer in a family of two wage earners.

Women are to the new service economy what men were to the economy of the Industrial Revolution. Let us face it. That is what women are. We have fueled the new economy with women. Except in a very real sense, they look exactly like the male industrial workers, low paid, poor benefits of the 19th century. The conversion is itself remarkable. The conversion I speak of is in the economy itself, which has prepared the way to accept women workers.

In the 1960's three-quarters of all the nonfarm job creation was in services. That is a lot. But by the 1970's, 80 percent of all the nonfarm job creation was in services. By the 1980's, 100 percent of all the net job growth was in the services. Four out of every five women work in a service job.

What do I mean by a service job? Because what I mean by a service job is in fact or tells in fact the story of declining and low wages.

□ 2245

A service job for a woman is a fast-food job. It is a job in a department store. It is a job as a health aide. It is a job as an insurance company clerk. It is a job in residential day care. It is a job as a beautician. It is a job as a clerical. The next time you go into the department store, look at that woman. Look at her closely, and you will know what I mean.

Mr. Speaker, the interesting thing is that historically, women tended to be in school and hospital jobs. There are proportionally few workers there because there are so many other workers in these other service jobs now that they have overwhelmed these school workers and the hospital workers, but watch out.

The school workers and the hospital workers very often were teachers and nurses, and those are relatively high-paid women's jobs, compared with health aides, insurance company clerks, fast-food clerks and department store clerks. These are honorable jobs. These are often good jobs. They just do not pay well. They do not pay what they are worth.

Listen to your constituents. They are hurting. They are hurting because they are not earning what they are worth. We have the only answer, is to get a greater sharing of the benefits of the labor with those who perform the labor. That is the American way, and unless it works that way, you get a disgruntled working class. There is no getting around it. You cannot continue to have a democratic society with a greater and greater share of the wages going to the top and almost none going to those at the bottom.

Now, do we have a situation where the money simply isn't there, that is the problem? That, my friends, is not the problem. You need only open your paper and look at what the stock market is doing, and you will see that the money is there. If anything, downsizing should have resulted in workers who were there getting paid more. It did not. That is why many companies are taking a second look at downsizing, because they have done it on the cheap. They have done it at the expense of workers and have not, in fact, increased productivity, have not done it the old-fashioned way, the American way.

Mr. Speaker, women have become the indispensable new workers who are fodder for the new economy. The last time the country needed the kind of labor supply we have gotten from women in the last two decades were, No. 1, at the time of the great immigration from Europe in the late 19th and early 20th century and No. 2, at the time the black workers in the South left and came north. Today, instead of asking workers to come from Europe or Asia to the United States, and of course there are many immigrants who come, instead what we are saying is, look at your own household and send a worker out for the new economy. If you are going to send a worker out for the new economy from your own household, then should not that new worker be paid what that new worker is worth?

Listen to your constituents now. Hear the cry. I say to my colleagues on the other side of the aisle, listen to your own primary. I never thought I would live to see a Republican sound like a labor Democrat, but I think that is what I heard Pat Buchanan sounding like. Now, that is not his tradition, and that is not the way he has run his political life, but I do think he heard something out there. We all better listen to it.

Whenever we have listened, we have found a remedy. This is not susceptible to yesterday's ideology or even tomorrow's. This is a new problem in the United States. When wages are low, the economy is bad. When wages are high, the economy is good. What is this new phenomenon? The economy is good and wages are low. Should not work that way.

Mr. Speaker, one of the things we can do, if it is working that way, is to look at the minimum wage, which has simply lost its value, and say pay people a little more to work. If you do not, you discourage work and then, of course, my friends get up on the House floor and say why do they not work? If it does not pay to work, how can we expect people to work?

This is America. This is America at the turn of the century. This is a country that must not send people to work only to have them come home poor. That is what is happening.

Economists tell us that there are a number of explanations for the low wages of women in particular. Typically, we are told that a reason for these low wages is crowding or concentration in traditional women's occupations. There may be some of that, but recent studies look to other answers. There was crowding in men's occupations. They had low skills, and yet in manufacturing, they had high wages. Why? My friends, the economists say it was because they were unionized. When the company would not share the profits, men went out and unionized. Women have not done that, and that may be part of the reason the economists tell us that they have not been able to extract a fair share of the profit of their labor from their employers.

We are also told that a reason is low capital investment in the industries in which women work. Even though we may not find the real answer any time soon, we need to look for a remedy very soon. We cannot allow the United States to become a place where you develop a permanent working class or, God forbid, what appear to be the case in many of the inner cities, a permentnt lumpenproletariat, people who never move up. Those would be the homeless, the people who are chronically or constantly unemployed. A greater and greater proportion of our population falls into this category.

This has never been that kind of European-class society. It has been a society where, however poor you were, you could look forward to being better off than your father. You may have been poor, but not as poor as he was. So there was steady progress, and a man could live to see a man who picked cotton live to see his son or daughter go to college. Today, people go to college on college loans and come back home to live because they cannot afford to strike out on their own, the way their parents did.

Mr. Speaker, this is a new America. This is not our America. We do not have all the answers to this America, but we do know this. Surely one of the answers, not maybe, but one of the answers surely is to give back at least some of the value to the minimum wage. It will have an effect, not only on those low-income workers, but it will have something of a ripple effect on those who are nearly as badly off, and you will not know the difference. You will not know it in the deficit. The businesses is question will hardly know it, because a few cents from their profit will go to their workers instead. Who among us would wish for any less?

Mr. Speaker, I recognize that the notion of the minimum wage, or for matter, my Fair Pay Act, are matters that have tended to divide Republican from Democrat, but it was in a Republican primary that one heard this cry first, and it was a Republican candidate that has tried to respond to it. He has responded to it in ways which many, not only in his own party but in mine, simply cannot agree. But he has heard something real. This body must hear something real. It is there. Do not deny it.

Do not tell low-paid workers who go to work every day that something will happen if you only wait for the economy to fit my paradigm, whether it is your flat-tax paradigm, your national sales tax paradigm or, for that matter, paradigms from my side of the aisle, such as stimulation paradigms. People need hope and relief now.

The minimum wage is traditional to American life. Even on the other side of the aisle, few say we should abolish it. There are some, but few. If we put to a vote today to abolish the minimum wage, I believe those of us who say keep it would prevail. The real question is, are you going to keep it at a level that is worthy of the name minimum wage? So far, we have not, and

we are going to pay very severe consequences if we do not.

Among other things, any welfare reform bill we pass will come back to hit us in the face because the people on welfare will come back to claim other benefits because they will not be able to earn enough to pay the rent and to put food on the table.

So I come forward this evening to talk about women's wages in particular, and that is not because I think the problem of men's wages is any better. In fact, it is worse. Men have fallen out of the labor force at an astounding rate because of the decline in the manufacturing sector. Men have experienced an extraordinary reduction in their annual wages over the last quarter of a century.

Mr. Speaker, I have come to the floor this evening to talk about women because I do not intend for women to be lost in this debate. Because if you do not speak up for women, they surely will be lost in this debate. The Women's Caucus found them lost in the health debate before we spoke up, as we did today when we introduced the Women's Health Equity Act. Before we spoke up about breast cancer and osteoporosis and, for that matter, clinical trials for women with heart disease, before we spoke up, they got lost in the health debate. We do not intend them to be lost now that the country has heard some voices that say we work every day and it is getting worse.

I come to the floor this evening to say I hear you and I believe that many on both sides of this body hear. They heard it on the other side in their primary. We hear it on this side, as well. Doing something about it through the minimum wage, as a first step, is a good-faith way to say we hear you. We are going to respond not in a radical departure from what we have always done, but in the tradition that we have always used, in an increase in the minimum wage that will give you a small raise in your pay envelope.

Remember that these minimum-wage workers pay the same social security taxes that the rich do, and the difference in the impact on their pay envelopes is gargantuan. They need a break. They need a raise. Many of them are women, and the majority, the great majority, of those who earn the minimum wage are women, and they are the people who take care of your children. They are the people of the next generation. Hear them. Receive them. Respond and remedy.

Mr. DELLUMS. Mr. Speaker, I take this opportunity, as organized by my valued colleague, Congresswoman ELEANOR HOLMES NORTON, to address the economic condition of women, the jobs that they do and have, and the wages that they receive in relation to the general pool of wage earners. Some of us have been deeply concerned by the deteriorating economic status of the vast majority of workers, citizens, in this country. Although this fall from economic grace began about 16 years ago, the cumulative effects of this steady drop are now beginning to be painfully felt by the majority of job holders.

The experience and story of one of my constituents, whom I shall call Geraldine Mason, is descriptive of many other people in my district and throughout the United States.

Ms. Mason has one pre-school child. She works in a produce market and tries to work at least 40 hours a week, 50 weeks a year, but can only get about 32 hours of work a week. She gets more than the minimum wage, $5 an hour. Her wage is a bit higher because the San Francisco bay area is one of the most expensive places to live in the United States. When she is lucky and works a steady 50 weeks in the year, her total income is $8,000 a year. After taxes, her take home pay is $7,710.

She shares an apartment with her sister; Betty's share of the rent is $250 a month or $3,000 a year.

Of course she needs child care. Although she is on several lists for the few subsidized child care slots in the area, there are needier cases than hers—women who have even less income. So she pays something nominal, $100 a month, $1,200 a year to members of family who are available. Her share of the utilities, telephone, and garbage comes to $55 or $660 a year.

Her job is 5 miles from home and she uses public transport. She can't afford the monthly pass, so she pays $1.25 per trip which adds up to $625 a year. Her food comes to $900 a year; supplementary medical care $299 a year; incidentals, $600 a year. Total: $7,710 a year. This income is augmented by the Earned Income Tax Credit which is under attack.

We are citizens of the United States and are indeed blessed and fortunate to be in a land of agricultural wealth, with human and other resources of which we are justifiably proud. Although we suffer natural calamities—floods, droughts, and earthquakes—we are large enough so that by pooling our national resources we have been able to absorb such shocks better than most nations. We have indeed been blessed to not be in permanent drought as is an increasing band of land in the sub-Sahara region or in the frozen tundra of Russia. We are a wealthy nation.

Why then, should Geraldine Mason, who wants to work and does work; who is a responsible mother and a tax-paying citizen, pushed up against an impossible wall to scale? What do we, the lawmakers and the law implementers tell Geraldine Mason how to survive in this economy?

"Between 1979 and 1991, families headed by people under 25 years old saw their incomes drop $7,200 a year from $24,000 to $16,800 * * *." Even the better established 25–34-year-olds suffered an income drop of $4,000 going from $35,600 to $31,500 during this period. There are about 20 million workers in the United States in Betty Mason's situation.

We know that at differing levels, college graduates, postgraduate, and professionals are beginning to feel the simultaneous crunch of income maldistribution, loss of jobs, and job insecurity.

On maldistribution, 1 percent of American households, with net worth of at least $2.3 million each, owns nearly 40 percent of the Nation's wealth; the top 20 percent of American households, with net worth of $180,000 or more, have more than 80 percent of the Nation's wealth; this figure is the highest of all industrial nations.

At the bottom end of the scale, where Geraldine Mason is stuck, and many single, divorced women with children are, the lowest earning 20 percent of Americans earn only 5.7 percent of all the after-tax income paid to individuals in the United States.

According to Marion Anderson, as published in "Running Up the Down Escalator," an Employment Research Associates report,

ENTRY LEVEL WAGES 1979 AND 1991

	High school graduates			College graduates		
	All	Men	Women	All	Men	Women
1979	$8.32	$9.39	$7.12	$11.32	$12.57	$10.07
1991	6.48	6.90	6.02	11.30	11.39	10.75

Here is another worker: Susan Casavant lives in Vermont, in Congressman SANDERS' district. She presented her story to the Progressive Caucus panel at the March 8, 1996, hearing on "The Silent Depression, the Collapse of the American Middle Class" on her work in Vermont. She states

I feel as if I am a good worker, I've been quite flexible and displayed responsibility and honest work. I have learned how to work in almost every department. Other employees depend on me in order to receive their work. I believe I pull a heavy load, both in and out of work.

I have such a hard time making a living because Peerless Clothing pays poverty-level wages!! Why?

She makes $5.25 an hour, up 25 cents an hour from the $5-an-hour starting wage.

. . . I work 40 hours per week plus overtime and Saturdays. My less than $200 a week check makes me feel like a fool. . . . It's still hard to make a good living. I still live with my family because I can't afford to pave my own road. . . . The insurance provided to us costs $41.70 per week for me and my son, that's about $168 per month and the worst part is that it doesn't cover half of the things me and my son need. I never thought my future could look so uninviting, I am twenty-one years old and I still depend on my parents; my mother cares for my son because I can't afford a good, safe day-care.

I live in America, the land of freedom, so how do big companies like these get away with bringing down honest people and their hometowns too? I would like to live in security instead of doubt.

When Susan Casavant and other workers tried to form a union, the company said that it would close or move.

What does the 104th Congress say to her?

This is what we can say: American workers need a raise. American workers, who are among the world's most efficient and productive, need to have some sense that they can learn, work, and make a living wage. This Nation needs our workers, and our economy needs their work and needs their buying power.

In this Congress, I am proud to be a cosponsor of three bills raising the minimum wage: Mr. GEPHARDT's H.R. 940 which raises the minimum wage to $4.70 an hour; Mr. SANDERS' H.R. 363 which raises the minimum

wage to $5.50, and Mr. SABO's H.R. 619, which raises the minimum wage to $6.50 an hour. It is clear from the rosy picture of our economy that the growth is on the increasingly bowed back of our increasing pool of low-paid workers—a disproportionate share of whom are women.

Franklin D. Roosevelt understood the experience, the lives, the misery of the people struggling to find work and income in the 1930's. As Roosevelt led this country to victory by successfully calling on our sense of national pride, by calling on our sense of fairness and democracy, our sense of justice, he was proud to declare in 1944, and much of the Nation thrilled to hear him declare, his Economic Bill of Rights.

Section 2 of this declaration states the U.S. policy of "The right to earn enough to provide for an adequate living."

Space limits me from quoting the other sections which gave Americans in 1944 and later, such a sense of empowerment and self-respect, empowerment and self-respect that we are now losing, and with it our sense of pride in ourselves and each other.

Twenty three of us in the 104th Congress can say and have said that we can make a living wage and that there can be jobs at decent wages for all who want to work and can work. This statement is embodied in H.R. 1050, A Living Wage, Jobs for All Act, which I was proud to introduce with 22 cosponsors; among them ELEANOR HOLMES NORTON.

It will represent a new contract with our people—one that answers Geraldine Mason and Susan Casavant as to how they can have pride in their work and share equitably in the benefits of our wealthy Nation.

During the 104th Congress many of the ideas can be developed, improved upon, sharpened, critiqued, and openly discussed around the country in public meetings, and by the end of the year brought together into a whole legislative package to be reflected in a new budget for the 105th Congress.

I respectfully urge my distinguished and hard-working colleagues to join me in developing a process which will give our citizens new opportunities for economic security and which will hold out hope for women that they can be made full partners in this economic security.

Ms. JACKSON LEE of Texas. Mr. Speaker, I would like to thank my colleagues in the Women's Caucus for calling attention to the issues facing women in the work force and the difficult work they have done to celebrate this year's Women's History Month celebration. I am delighted to participate in this discussion of women, wages, and jobs, because it is an issue that has become increasingly important to us all, as women are now an integral part of the American work force.

First of all, let me commend the millions of women who juggle the dual role of homemaker and breadwinner, as well as those who choose homemaking as a career—for in our society every woman has a crucial role to play.

From the beginning of time, women have performed tasks which were crucial to the economic and social development of our society. At one time, we were only allowed to become educators nurses, seamstresses, and hairdressers, yet today we have expanded our roles to include doctors, lawyers, judges, administrators, and yes we have conquered the sciences as well. And so I say to the women of America, "you've come a long way."

Yes, we have come a long way, and my colleagues and I serving in the 104th Congress bear witness to that fact, yet we have so much farther to go.

On Friday March 8th, women across the globe celebrated International women's Day. A day which was set aside to mark the beginning of the struggle for equality and rights for women. In many countries, it was a day mixed with celebration and protest. Celebration for the many economic, social, and political obstacles we have successfully overcome, and protest for the ongoing inequalities and barriers that continue to deny us full participation in society. Yet in America, International Women's Day went literally without notice. Did we fail to recognize this day because we have conquered all the obstacles or is it because we have fallen down on the job?

Mr. Speaker, I submit to you that in spite of the strides that have been made, until we eradicate pay inequalities, the glass ceiling, sexual discrimination and the myriad of other problems facing working women, our battle is far from over.

A recent report from the U.S. Department of Labor's Glass Ceiling Commission shows that women represent over half of the adult population and nearly half of the work force in America. Women compose half of the work force, yet we remain disproportionately, clustered in traditionally "female" jobs with lower pay and fewer benefits. These studies show that women who make the same career choices as men and work the same hours as men often still advance more slowly and earn less.

Women remain underrepresented in most nontraditional professional occupations as well as blue collar trades. Consider the following:

Women make up 23 percent of lawyers but only 11 percent of partners in law firms, women are 48 percent of all journalists, but hold only 6 percent of the top jobs in journalism, women physicians earned 53.9 percent of the wages of male physicians, women are only 8.6 percent of all engineers, women are 3.9 percent of airplane pilots and navigators; and in dentistry, women are over 99.3 percent of hygienists, but only 10.5 percent of dentists.

The report found that although the pay gap for women narrowed significantly in fields such as computer analysts, it widened in others. They show that in 1993 women earned only 72 percent of the wages paid to men. This wage gap is worse for women of color. White women earn 72 cents per every dollar made by white men while African-American women earn 64 cents and Latino women earn a mere 54 cents.

Mr. Speaker, working women in this country have been fighting for equal pay for equal work for over 20 years now, and although the gap is closing, it is not happening at the rate any of us should be pleased with. When this government exposes civil or human rights violations in other countries, we are quick to impose sanctions to encourage people to remedy their behavior, yet when companies within our own borders continue to violate these same rights, we turn our heads, and say, "these things just take time." Well, how long will it take before working mothers can actually support their children, without the extra assistance from family, or government.

In closing, I would thank to Rep. NORTON for allowing me the opportunity to speak on this issue.

Ms. WATERS. Mr. Speaker, I would first like to thank my colleague, Congresswoman ELEANOR HOLMES NORTON, for bringing us together to discuss the vital issue of women and wages in our country.

While women have made some economic strides in the past few decades, we still have a long way to go. This session of Congress, under our new Republican leadership, was especially brutal for women—it was, and continues to be, antiwoman, antichoice, and antiworking family.

Today, most women work and spend less time with their children and families. Many cannot afford health insurance for their families and worry about their economic security in old age.

This Republican-led Congress has passed many bills to weaken and threaten women's rights, health, freedom, opportunities, economic equity, and economic security.

They have cut student loans, Social Security, family planning services, and child care. They have tried to take away our constitutional right to choose. They have attempted to slash funding for school nutrition programs, and have abolished important job training programs that train women for higher paying, nontraditional jobs. They have attacked affirmative action.

Let's talk about affirmative action, and how we need it to help level the playing field with men. Today women are still paid less for the same work. Women taxpayers are not getting their money's worth. Even with affirmative action, we make only 72 cents to a man's dollar. This is a disgrace.

In 1993, female managers earned 33 percent less than male managers, female college professors earned 23 percent less than male professors, and female elementary school teachers earned 22 percent less than male elementary school teachers, Let's not dismantle affirmative action until these discrepancies in wages are entirely erased.

The old boy network is alive and strong. Sexism and racism still exist and must be remedied. That's what affirmative action is all about. We must encourage and train women to seek higher paying jobs in order for them to successfully provide for their families.

Did you know that women who choose nontraditional female careers, such as fire-fighters or engineers, can expect to have lifetime earnings that are 150 percent of women who choose traditional careers like clerical workers or beauticians? We will not crack the "glass ceiling" until we break out of the "pink collar ghetto."

At this time of corporate downsizing and Government budget cutting, women must work even harder to secure a place in a changing economy. This is no easy task, especially when important programs for women have been slashed, such as the School-to-Work Opportunities Act.

This program, reduced by 22 percent this year, particularly affects female students who need exposure to high-skill, high-wage career options that are not traditional for girls. Cuts in

job training programs, and the elimination of the Women's Educational Equity Act further hurt women's prospects for achieving pay equity with men in the near future.

There is some hope, however. We must start to teach our daughters—the next generation of women workers—to become independent thinkers and problem-solvers, so that they may increase their self-confidence and attain high-paying jobs as adults. We can praise them for taking risks, and for their ideas rather than their appearance.

We can encourage them to master computers and take leadership positions. We can enroll them in sports and begin to discuss career options now. We can serve as mentors and role models.

A few women have made it to the top of the corporate ladder. Two women sit on the Supreme Court, two head the Justice Department, and a record 31 percent of President Clinton's appointments to the Federal bench were women. My State, California, is the only State headed by two female Senators.

President Clinton, in this 1997 budget, has preserved funding for many programs important to women and families, including child care, child support, and job training.

The Congressional Caucus for Women's Issues, under the leadership of Congresswoman NITA LOWEY and Congresswoman CONNIE MORELLA, has been very active in assuring that women's concerns are not forgotten, even when we represent only 10 percent of the House of Representatives. Later on this year, we will continue the tradition of introducing the Women's Economic Equity Act. This package of bills will help women continue to succeed in the workplace.

Thank you, again, Congresswoman NORTON, for your commitment to women and economic equality, and for this opportunity to discuss women in the workplace.

GENERAL LEAVE

Ms. NORTON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include therein extraneous material on the subject of my special order.

The SPEAKER pro tempore (Mr. COLLINS of Georgia). Is there objection to the request of the gentlewoman from the District of Columbia?

There was no objection.

REPUBLICAN PRIMARIES

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

Mr. HUNTER. Mr. Speaker, I rise this evening to talk about a couple of Republican Presidential candidates who are not leading the polls and have not just won in California and other States. Of course, the gentleman who has done that is BOB DOLE. But I wanted to talk a little bit tonight about two friends, because I think that they have a great deal to offer the Republican Party and to the Nation, and I think it would be very unwise for our party and for the leadership that will be emerging from the convention in my hometown in San Diego to ignore either these candidates or the many millions of people whom they represent.

□ 2300

Mr. Speaker, those two candidates are my great friend and near-seat mate from California [Mr. DORNAN], who sits on the Armed Services Committee with me and whom I have endorsed for President, and another good friend, Pat Buchanan who has made a very spirited run at the Presidential nomination and not quite made it, but, nonetheless, has, I think, touched a nerve with many, many Americans and attracted many Americans to his agenda.

Let me start off by saying, Mr. Speaker, that I listened to my father in the past talk to me about political smear campaigns and how people were denigrated by the press, by the liberal media, to the point where they had no chance of winning an election. I remember him first showing me those evidences of such campaigns back in the Barry Goldwater days when Barry was denounced as someone who would get us into nuclear war, and was unfit to serve in the White House, and was supposed to be a very dangerous person. After he concluded an excellent career in the Senate, he was then regarded by the same pundits and liberal media people as a, quote, conservative statesman, but in those days he was bashed a lot.

And I noticed that Pat Buchanan has taken a lot of bashing, and I think very unfairly, because I look at his positions with respect to free trade. He opposes President Clinton's NAFTA, so there is something wrong with that position from the liberal media standpoint. He supports the right to life of unborn children, a traditional Republican opinion and position, and of course that is opposed by the liberal media. He supports a strong military, and of course that is opposed by the liberal media which watched with dismay as President Reagan's strong military posture dismantled the Soviet Union and ended the cold war.

Mr. Speaker, on a personal note Pat and Shelly are wonderful people. They are fine people, they care about the Nation, they have great compassion for their fellow Americans. And to see the media come out and imply that Pat Buchanan was anti-Semitic, and when you ask why they thought that, they said, well, it is the way he pronounces terms like Goldman Sachs. I thought, my gosh, we live in an age where the media can denounce somebody and call them names because of the way they pronounce a word. I have not seen McCarthyism, but I guess that is probably as close as we will come in these times.

So, Pat Buchanan has a great deal to offer the Republican Party. He really has the traditional Republican positions of fair trade, not free trade. Remember that, when John Kennedy offered one of the first free trade bills back in 1962, it was opposed mainly by three Senators: Barry Goldwater, STROM THURMOND, and a Senator named Prescott Bush, the father of the future President, George Bush. Conservatives opposed free trade because we thought that, if you gave away pieces of the American market and did not get anything in return, you were disserving millions of American working people and small businesses, and that is exactly the case today. And Pat Buchanan has been exactly right about NAFTA, and President Clinton, who fathered NAFTA, has been exactly wrong.

There was a $3 billion trade surplus over Mexico before NAFTA. Today there is a $15 billion trade deficit. That means billions of dollars gone that would have been coming to Americans who are working in America making those components and those products that now are made in Mexico. We have now a $30 billion trade deficit with Communist China, which even now is building short-range and long-range missiles, has a big weapons market in the Third World, selling weapons to Libya and Iraq and other nations.

So Pat Buchanan has traditional Republican principles, and I think it is a tragedy that he was smeared so thoroughly by the American media. I hope that BOB DOLE will open wide his party door and the door to the convention to Pat and to my other great friend, the gentleman from California [Mr. DORNAN].

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. WELDON of Pennsylvania (at the request of Mr. ARMEY) for today and the balance of the week, on account of eye surgery.

Mrs. FOWLER (at the request of Mr. ARMEY) for today and the balance of the week, on account of medical reasons.

Mrs. COLLINS of Illinois (at the request of Mr. GEPHARDT) for today and the balance of the week, on account of medical reasons.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. CANADY of Florida) to revise and extend their remarks and include extraneous material:)

Mr. MCINNIS, for 5 minutes, today.

Mr. SMITH of New Jersey, for 5 minutes, today.

Mr. MCINTOSH, for 5 minutes, today.

Mr. BILBRAY, for 5 minutes, today.
Mr. SALMON, for 5 minutes, today.
Mr. SAXTON, for 5 minutes each day, today and on March 28.
Mr. LATOURETTE, for 5 minutes, on March 28.
(The following Members (at the request of Ms. DELAURO) to revise and extend their remarks and include extraneous material:)
Mr. SKELTON, for 5 minutes, today.
Ms. DELAURO, for 5 minutes, today.
Mrs. SCHROEDER, for 5 minutes, today.
(The following Member (at his own request) to revise and extend his remarks and include extraneous material:)
Mr. DOOLITTLE, for 5 minutes, today.
(The following Members (at the request of Mr. HAYWORTH) to revise and extend their remarks and include extraneous material:)
Mr. TORKILDSEN, for 5 minutes, on April 15.
Mr. FOX of Pennsylvania, for 5 minutes, today.
(The following Members (at the request of Mr. FARR of California) to revise and extend their remarks and include extraneous material:)
Mr. FARR of California, for 5 minutes, today.
Mr. ABERCROMBIE, for 5 minutes, today.
Ms. KAPTUR, for 5 minutes, today.
(The following Member (at his own request) to revise and extend his remarks and include extraneous material:)
Mr. HUNTER, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:
(The following Members (at the request of Mr. CANADY of Florida) and to include extraneous matter:)
Mr. BURTON of Indiana.
Mr. SHUSTER.
Mr. LEWIS of California in two instances.
(The following Members (at the request of Mr. FARR of California) and to include extraneous matter:)
Mrs. MEEK of Florida.
Mr. UNDERWOOD.
Mr. HAMILTON in three instances.
Mr. WISE.
Mr. HINCHEY.
Mr. POSHARD.
Mr. SABO.
Mrs. SCHROEDER.
Mr. STUDDS.
Mr. BRYANT of Texas.
Mr. HALL of Texas.
(The following Members (at the request of Mr. HAYWORTH) and to include extraneous matter:)
Mr. ROBERTS.
Mr. HORN.
Mr. BAKER of California.
Mr. FRANKS of New Jersey.
Mr. SOLOMON.
Mr. WALSH.
Mr. FOX of Pennsylvania.
Mr. MARTINI.
Mr. MCKEON.
(The following Members (at the request of Mr. HUNTER) and to include extraneous matter:)
Mr. RAMSTAD.
Mr. HASTINGS of Washington.
Mr. GILLMOR.
Ms. VELÁZQUEZ.
Ms. DANNER.
Mr. KOLBE.
Mrs. MORELLA.
Mr. HALL of Texas.
Mr. BARCIA.
Ms. SLAUGHTER.
Mr. HOSTETTLER.

ADJOURNMENT

Mr. HUNTER. Mr. Speaker, I move that the House do now adjourn.
The motion was agreed to; accordingly (at 11 o'clock and 5 minutes p.m.), the House adjourned until tomorrow, Thursday, March 28, 1996, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2301. A letter from the Under Secretary for Acquisition and Technology, Department of Defense, transmitting a report on laboratories designated as eligible to participate in the Department's Laboratory Revitalization Demonstration Program, pursuant to Public Law 104–106, section 2892(d) (110 State. 590); to the Committee on National Security.

2302. A letter from the Secretary of Labor, transmitting a report entitled "Core Data Elements and Common Definitions for Employment and Training Programs," pursuant to Public Law 102–367, section 404(a) (106 Stat. 1085); to the Committee on Economic and Educational Opportunities.

2303. A letter from the Secretary of Energy, transmitting the Department's annual report for the strategic petroleum reserve, covering calendar year 1995, pursuant to 42 U.S.C. 6245(a); to the Committee on Commerce.

2304. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b; to the Committee on International Relations.

2305. A letter from the Administrator, U.S. Small Business Administration, transmitting the annual report under the Federal Managers' Financial Integrity Act for fiscal year 1995, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Reform and Oversight.

2306. A letter from the Secretary, Naval Sea Cadet Corps, transmitting the annual audit report of the Corps for the year ended December 31, 1995, pursuant to 36 U.S.C. 1101(39) and 1103; to the Committee on the Judiciary.

2307. A letter from the Secretary of Transportation, transmitting a study on innovative financing available under the Airport Improvement Program, pursuant to 49 U.S.C. 47101 note; to the Committee on Transportation and Infrastructure.

2308. A letter from the Deputy Administrator, General Services Administration, transmitting a building project survey report for Research Triangle Park, NC, pursuant to 40 U.S.C. 610(b); to the Committee on Transportation and Infrastructure.

2309. A letter from the Chairman, Pension Benefit Guaranty Corporation, transmitting the 21st annual report of the Corporation, which includes the Corporation's financial statements as of September 30, 1995, pursuant to 29 U.S.C. 1308; jointly, to the Committees on Economic and Educational Opportunities and Ways and Means.

2310. A letter from the Secretary of Transportation, transmitting notification of the actions the Secretary has taken regarding security measures at Hellenikon International Airport, Athens, Greece, pursuant to 49 U.S.C. 44907(d)(3); jointly, to the Committees on Transportation and Infrastructure and International Relations.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. SHUSTER: Committee on Transportation and Infrastructure. H.R. 842. A bill to provide off-budget treatment for the Highway Trust Fund, the Airport and Airway Trust Fund, the Inland Waterways Trust Fund, and the Harbor Maintenance Trust Fund; with an amendment (Rept. 104–499 Pt. 1). Ordered to be printed.

Mr. SOLOMON: Committee on Rules. House Resolution 391. Resolution providing for consideration of the bill (H.R. 3136) to provide for enactment of the Senior Citizens' Right to Work Act of 1996, the Line Item Veto Act, and the Small Business Growth and Fairness Act of 1996, and to provide for a permanent increase in the public debt limit (Rept. 104–500). Referred to the House Calendar.

Mr. GOSS: Committee on Rules. House Resolution 392. Resolution providing for the consideration of the bill (H.R. 3103) to amend the Internal Revenue Code of 1986 to improve portability and continuity of health insurance coverage in the group and individual markets, to combat waste, fraud, and abuse in health insurance and health care delivery, to promote the use of medical savings accounts, to improve access to long-term care services and coverage, to simplify the administration of health insurance, and for other purposes (Rept. 104–501). Referred to the House Calendar.

Mr. SOLOMON: Committee on Rules. House Resolution 393. Resolution waiving points of order against the conference report to accompany the bill (H.R. 2854) to modify the operation of certain agricultural programs (Rept. 104–502). Referred to the House Calendar.

Mr. LINDER: Committee on Rules. House Resolution 394. Resolution waiving points of order against the conference report to accompany the bill (H.R. 956) to establish legal standards and procedures for product liability litigation, and for other purposes (Rept. 104–503). Referred to the House Calendar.

TIME LIMITATION OF REFERRED BILL

Pursuant to clause 5 of rule X the following action was taken by the Speaker:

H.R. 842. Referral to the Committee on the Budget extended for a period ending not later than March 29, 1996.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. MARTINI (for himself, Mr. McCOLLUM, Mr. HYDE, and Mr. SCHUMER):

H.R. 3166. A bill to amend title 18, United States Code, with respect to the crime of false statement in a Government matter; to the Committee on the Judiciary.

By Mr. BAKER of Louisiana (for himself, Mr. KANJORSKI, Mr. McCOLLUM, Mr. BACHUS, Mr. KING, Mr. HAYWORTH, Mr. CHRYSLER, Mr. CREMEANS, Mr. FOX, Mr. METCALF, Mr. WELLER, Mr. LAFALCE, Mr. ORTON, and Mr. BENTSEN):

H.R. 3167. A bill to reform the Federal Home Loan Bank System, and for other purposes; to the Committee on Banking and Financial Services.

By Ms. DELAURO (for herself, Mr. GEPHARDT, Mr. BONIOR, and Mr. FAZIO of California):

H.R. 3168. A bill to facilitate efficient investments and financing of infrastructure projects and new job creation through the establishment of a National Infrastructure Development Corporation, and for other purposes; to the Committee on Transportation and Infrastructure, and in addition to the Committees on Banking and Financial Services, and Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. FRANKS of New Jersey:

H.R. 3169. A bill to amend the Job Corps program under the Job Training Partnership Act to ensure a drug-free, safe, and cost-effective Job Corps, and for other purposes; to the Committee on Economic and Educational Opportunities.

By Mr. FRANKS of New Jersey (for himself, Mr. PALLONE, Mr. FRELINGHUYSEN, and Mr. ZIMMER):

H.R. 3170. A bill to dispose of contaminated dredged sediments in a more environmentally responsible manner, and for other purposes; to the Committee on Transportation and Infrastructure, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. HOKE:

H.R. 3171. A bill to limit the procurement of aircraft landing gear by the Secretary of Defense to landing gear that is manufactured and assembled in the United States; to the Committee on National Security.

By Mr. KENNEDY of Rhode Island (for himself, Mr. BOEHLERT, Mr. MARKEY, Mr. BLUTE, Mr. PALLONE, Mr. QUINN, Mr. TORKILDSEN, Mr. HINCHEY, and Mr. GEJDENSON):

H.R. 3172. A bill to establish a Commission to develop strategies and policies to mitigate the environmental impacts associated with electric utility restructuring; to the Committee on Commerce.

By Mr. LANTOS (for himself, Mr. BROWN of California, Ms. WATERS, Mr. MORAN, Mr. FRANK of Massachusetts, Mr. ABERCROMBIE, Mr. GEJDENSON, Mr. COLEMAN, Ms. PELOSI, Mr. STARK, Mr. KLECZKA, Mr. MILLER of California, Mr. JACOBS, Mr. SANDERS, Mr. DEFAZIO, Ms. WOOLSEY, Mr. TORRES, Ms. RIVERS, Mr. LEWIS of Georgia, Mr. CARDIN, Mr. CLAY, Mr. DELLUMS, Mr. JOHNSON of South Dakota, Mr. YATES, Mrs. MINK of Hawaii, Mr. SCHUMER, Mr. FARR, Mr. FOGLIETTA, Mr. TORRICELLI, Mr. PORTER, Mr. JOHNSTON of Florida, Mr. SHAYS, and Mr. REED):

H.R. 3173. A bill to establish, wherever possible, nonanimal acute toxicity testing as an acceptable standard for Government regulations requiring an evaluation of the safety of products by the Federal Government; to the Committee on Commerce.

By Mrs. MORELLA:

H.R. 3174. A bill to amend the Public Health Service Act to provide for programs regarding women and the human immunodeficiency virus; to the Committee on Commerce.

H.R. 3175. A bill to amend the Public Health Service Act to provide for an increase in the amount of Federal funds expended to conduct research on alcohol abuse and alcoholism among women; to the Committee on Commerce.

H.R. 3176. A bill to amend the Public Health Service Act to establish programs of research with respect to women and cases of infection with the human immunodeficiency virus; to the Committee on Commerce.

By Mr. SENSENBRENNER (for himself and Mr. OBEY):

H.R. 3177. A bill to repeal the consent of Congress to the Northeast Interstate Dairy Compact, and for other purposes; to the Committee on the Judiciary.

By Ms. SLAUGHTER (for herself, Mrs. MORELLA, Mrs. LOWEY, Ms. EDDIE BERNICE JOHNSON of Texas, Ms. BROWN of Florida, Mrs. CLAYTON, Miss COLLINS of Michigan, Mrs. COLLINS of Illinois, Ms. DELAURO, Ms. ESHOO, Ms. FURSE, Ms. HARMAN, Ms. JACKSON-LEE, Mrs. JOHNSON of Connecticut, Mrs. KELLY, Mrs. KENNELLY, Ms. LOFGREN, Ms. McKINNEY, Mrs. MALONEY, Mrs. MEEK of Florida, Mrs. MEYERS of Kansas, Mrs. MINK of Hawaii, Ms. NORTON, Ms. PELOSI, Ms. RIVERS, Mrs. ROUKEMA, Ms. ROYBAL-ALLARD, Mrs. SCHROEDER, Mrs. THURMAN, Ms. VELAZQUEZ, Ms. WATERS, and Ms. WOOLSEY):

H.R. 3178. A bill to promote greater equity in the delivery of health care services to American women through expanded research on women's health issues and through improved access to health care services, including preventive health services; to the Committee on Commerce, and in addition to the Committees on Ways and Means, the Judiciary, Agriculture, International Relations, Veterans' Affairs, Economic and Educational Opportunities, National Security, and Banking and Financial Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. VELÁZQUEZ:

H.R. 3179. A bill to modify various Federal health programs to make available certain services to women who are members of racial or ethnic minority groups, and for other purposes; to the Committee on Ways and Means, and in addition to the Committees on Commerce, Economic and Educational Opportunities, and Agriculture, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. ENGEL (for himself, Ms. MOLINARI, Mr. LANTOS, Mr. PORTER, Mr. LEVIN, Mr. KING, Mr. TORRICELLI, Mr. MORAN, Mrs. KELLY, Mr. BONIOR, Mr. MILLER of California, and Mr. ROHRABACHER):

H. Con. Res. 155. Concurrent resolution concerning human and political rights and in support of a resolution of the crisis in Kosova; to the Committee on International Relations.

By Ms. DELAURO:

H. Con. Res. 156. Concurrent resolution expressing the sense of the Congress regarding research on the human papillomavirus and its relation to cervical cancer; to the Committee on Commerce.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

211. By the SPEAKER: Memorial of the Senate of the State of Kansas, relative to amending the Federal Food, Drug and Cosmetic Act and the Public Health Service Act to facilitate the development and approval of new drugs and biologics; to the Committee on Commerce.

212. Also, memorial of the Senate of the Commonwealth of Kentucky, relative to recognizing the injustices of human rights in Guatemala; to the Committee on Government Reform and Oversight.

213. Also, memorial of the Legislature of the State of California, relative to forced labor; to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 528: Mr. EHLERS.

H.R. 573: Mr. FRANK of Massachusetts.

H.R. 820: Mr. FLAKE, Mr. GRAHAM, Mr. SISISKY, Mr. STENHOLM, Mr. ACKERMAN, Mr. SCHUMER, Ms. LOFGREN, Ms. PRYCE, Mr. SHAYS, and Mr. SERRANO.

H.R. 940: Mr. BRYANT of Texas.

H.R. 957: Mr. LATOURETTE.

H.R. 1023: Mr. GILCHREST, Mr. CHRYSLER, Mr. TAYLOR of North Carolina, Mr. YOUNG of Florida, Mrs. CLAYTON, Mr. DE LA GARZA, Mr. BALDACCI, Mr. LUCAS, and Mr. MYERS of Indiana.

H.R. 1127: Mr. POMEROY.

H.R. 1363: Mr. BALLENGER, Mr. BASS, Mr. BURR, Mr. CHRYSLER, Mrs. CHENOWETH, Mr. CREMEANS, Mr. TIAHRT, Mr. WELDON of Florida, Mr. McINTOSH, and Mr. JONES.

H.R. 1386: Mr. BARCIA of Michigan, Mr. CLEMENT, and Mr. STENHOLM.

H.R. 1406: Mr. ABERCROMBIE, Mr. MARTINI, and Mr. THORNBERRY.

H.R. 1462: Mr. BALDACCI, Mr. FROST, Ms. MOLINARI, Mr. FRAZER, Mr. FALEOMAVAEGA, Mr. CLAY, and Ms. McKINNEY.

H.R. 1484: Mr. ABERCROMBIE.

H.R. 1496: Mr. FRANKS of New Jersey.

H.R. 1500: Ms. HARMAN.

H.R. 1619: Mr. FIELDS of Texas, Ms. JACKSON-LEE, and Mr. STOCKMAN.

H.R. 1776: Mr. GINGRICH, Mr. CAMPBELL, Mr. BERMAN, Mr. KENNEDY of Rhode Island, and Mr. DEUTSCH.

H.R. 1802: Mr. QUINN.

H.R. 1810: Mr. MARTINI.

H.R. 1863: Mr. BRYANT of Texas and Mr. ANDREWS.

H.R. 1883: Mr. ZIMMER.

H.R. 2003: Mr. FILNER.

H.R. 2011: Mr. WYNN.

H.R. 2019: Ms. WOOLSEY and Mr. SANDERS.

H.R. 2071: Ms. JACKSON-LEE.

H.R. 2270: Mr. COX.

H.R. 2337: Mr. CRAMER.

H.R. 2510: Mr. MARTINI.

H.R. 2579: Mr. GIBBONS.

H.R. 2618: Mr. BILBRAY.

H.R. 2745: Mr. MANTON, Mr. FOGLIETTA, and Mr. RUSH.

H.R. 2856: Mr. MARTINI and Mr. MCNULTY.

H.R. 2893: Mr. REED and Mr. ROBERTS.

H.R. 2925: Mr. STENHOLM and Mr. VOLKMER.

H.R. 2927: Mr. WELDON of Pennsylvania, Mr. MOORHEAD, and Mr. LEWIS of California.

H.R. 2935: Mr. COOLEY and Mr. TATE.

H.R. 2974: Mr. FOX.

H.R. 2976: Mr. BALDACCI, Mr. CALVERT, Mr. CHAMBLISS, Mr. CRAPO, Mr. DEUTSCH, Mr. DUNCAN, Ms. MCKINNEY, Ms. MOLINARI, and Ms. RIVERS.

H.R. 2994: Mr. MCCOLLUM, Mr. GUNDERSON, and Mr. BROWN of California.

H.R. 3002: Mr. EHLERS.

H.R. 3004: Mr. PETERSON of Minnesota, Mr. NEY, Mr. DEUTSCH, Mr. BILBRAY, Mr. GILLMOR, and Mr. EHLERS.

H.R. 3012: Mr. HEFLEY, Mr. DELLUMS, Mr. SMITH of New Jersey, Mr. BARCIA of Michigan, Mrs. MINK of Hawaii, Mr. FRAZER, Mr. FRANK of Massachusetts, Mr. MANTON, and Mr. MATSUI.

H.R. 3045: Mr. RAHALL.

H.R. 3048: Mr. CASTLE, Mr. CUNNINGHAM, and Mr. WAMP.

H.R. 3050: Mr. BARCIA of Michigan and Ms. KAPTUR.

H.R. 3059: Mr. BARRETT of Wisconsin, Mr. FOGLIETTA, Mr. FRAZER, Mr. FROST, Mr. JEFFERSON, Mr. KLECZKA, Mr. LIPINSKI, Ms. LOFGREN, Ms. MCKINNEY, Mr. MILLER of California, Ms. RIVERS, Mr. THOMPSON, Mr. WAXMAN.

H.R. 3114: Mr. NEAL of Massachusetts, Mrs. JOHNSON of Connecticut, and Mr. FUNDERBURK.

H.R. 3118: Mr. ACKERMAN, Mr. GENE GREEN of Texas, and Mr. CRAMER.

H.R. 3130: Mr. GENE GREEN of Texas.

H.R. 3142: Mr. ENSIGN, Mrs. LOWEY, Mr. GONZALEZ, Mr. CALVERT, Mr. HAYES, Mr. SAXTON, Mr. MONTGOMERY, Mrs. KELLY, Mr. ABERCROMBIE, Mr. FROST, Mr. FORBES, Mr. CLINGER, Mr. TALENT, Mr. CANADY, Mr. METCALF, Mr. BRYANT of Texas, and Mr. HUNTER.

H.R. 3149: Mr. HANCOCK.

H.J. Res. 97: Mr. WISE.

H.J. Res. 159: Mr. WHITFIELD, Mr. BILBRAY, and Mr. ROSE.

H. Con. Res. 47: Mr. CONYERS, Mr. DE LA GARZA, Mr. HILLIARD, Mr. NEY, Mr. SABO, and Ms. VELÁZQUEZ.

H. Con. Res. 144: Mr. TORKILDSEN.

H. Res. 49: Mr. THOMPSON and Mrs. MEEK of Florida.

H. Res. 348: Mr. MCCOLLUM and Mr. GOODLING.

H. Res. 374: Mr. CAMP, Mr. FRELINGHUYSEN, Mr. COBLE, Mr. HUNTER, Mr. PORTER, Mr. MARTINI, Mrs. CUBIN, Mr. NETHERCUTT, Mr. CALVERT, Mr. EHRLICH, Mr. HANCOCK, Mr. NCNULTY, Ms. WOOLSEY, Mr. GENE GREEN of Texas, Mr. WELDON of Pennsylvania, Mr. TRAFICANT, and Mr. YATES.

H. Res. 378: Mrs. MEYERS of Kansas, Mr. ENGLISH of Pennsylvania, Mr. BATEMAN, Mr. WOLF, Ms. NORTON, Mr. DELLUMS, Mr. CALVERT, Mr. BERMAN, and Ms. PELOSI.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

69. The SPEAKER presented a petition of the Transportation Policy Board of the Abilene Metropolitan Planning Organization, Abilene, TX, relative to the issues of appropriate taxation and adequate provision of transportation infrastructure; which was referred jointly, to the Committees on Transportation and Infrastructure and the Budget.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 3103

OFFERED BY: MR. DINGELL

AMENDMENT No. 2: Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Health Insurance Reform Act of 1996".

TITLE I—HEALTH CARE ACCESS, PORTABILITY, AND RENEWABILITY

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Sec. 100. Definitions.

SUBTITLE A—GROUP MARKET RULES

Sec. 101. Guaranteed availability of health coverage.
Sec. 102. Guaranteed renewability of health coverage.
Sec. 103. Portability of health coverage and limitation on preexisting condition exclusions.
Sec. 104. Special enrollment periods.
Sec. 105. Disclosure of information.

SUBTITLE B—INDIVIDUAL MARKET RULES

Sec. 110. Individual health plan portability.
Sec. 111. Guaranteed renewability of individual health coverage.
Sec. 112. State flexibility in individual market reforms.
Sec. 113. Definition.

SUBTITLE C—COBRA CLARIFICATIONS

Sec. 121. Cobra clarification.

SUBTITLE D—PRIVATE HEALTH PLAN PURCHASING COOPERATIVES

Sec. 131. Private health plan purchasing cooperatives.

SUBTITLE E—APPLICATION AND ENFORCEMENT OF STANDARDS

Sec. 141. Applicability.
Sec. 142. Enforcement of standards.

SUBTITLE F—MISCELLANEOUS PROVISIONS

Sec. 191. Health coverage availability study.
Sec. 192. Effective date.
Sec. 193. Severability.

SEC. 100. DEFINITIONS.

As used in this title:

(1) BENEFICIARY.—The term "beneficiary" has the meaning given such term under section 3(8) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(8)).

(2) EMPLOYEE.—The term "employee" has the meaning given such term under section 3(6) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(6)).

(3) EMPLOYER.—The term "employer" has the meaning given such term under section 3(5) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(5)), except that such term shall include only employers of two or more employees.

(4) EMPLOYEE HEALTH BENEFIT PLAN.—

(A) IN GENERAL.—The term "employee health benefit plan" means any employee welfare benefit plan, governmental plan, or church plan (as defined under paragraphs (1), (32), and (33) of section 3 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002 (1), (32), and (33))) that provides or pays for health benefits (such as provider and hospital benefits) for participants and beneficiaries whether—

(i) directly;

(ii) through a group health plan offered by a health plan issuer as defined in paragraph (8); or

(iii) otherwise.

(B) RULE OF CONSTRUCTION.—An employee health benefit plan shall not be construed to be a group health plan, an individual health plan, or a health plan issuer.

(C) ARRANGEMENTS NOT INCLUDED.—Such term does not include the following, or any combination thereof:

(i) Coverage only for accident, or disability income insurance, or any combination thereof.

(ii) Medicare supplemental health insurance (as defined under section 1882(g)(1) of the Social Security Act).

(iii) Coverage issued as a supplement to liability insurance.

(iv) Liability insurance, including general liability insurance and automobile liability insurance.

(v) Workers compensation or similar insurance.

(vi) Automobile medical payment insurance.

(vii) Coverage for a specified disease or illness.

(viii) Hospital or fixed indemnity insurance.

(ix) Short-term limited duration insurance.

(x) Credit-only, dental-only, or vision-only insurance.

(xi) A health insurance policy providing benefits only for long-term care, nursing home care, home health care, community-based care, or any combination thereof.

(5) FAMILY.—

(A) IN GENERAL.—The term "family" means an individual, the individual's spouse, and the child of the individual (if any).

(B) CHILD.—For purposes of subparagraph (A), the term "child" means any individual who is a child within the meaning of section 151(c)(3) of the Internal Revenue Code of 1986.

(6) GROUP HEALTH PLAN.—

(A) IN GENERAL.—The term "group health plan" means any contract, policy, certificate or other arrangement offered by a health plan issuer to a group purchaser that provides or pays for health benefits (such as provider and hospital benefits) in connection with an employee health benefit plan.

(B) ARRANGEMENTS NOT INCLUDED.—Such term does not include the following, or any combination thereof;

(i) Coverage only for accident, or disability income insurance, or any combination thereof.

(ii) Medicare supplemental health insurance (as defined under section 1882(g)(1) of the Social Security Act).

(iii) Coverage issued as a supplement to liability insurance.

(iv) Liability insurance, including general liability insurance and automobile liability insurance.

(v) Workers compensation or similar insurance.

(vi) Automobile medical payment insurance.

(vii) Coverage for a specified disease or illness.

(ix) Short-term limited duration insurance.

(x) Credit-only, dental-only, or vision-only insurance.

(xi) A health insurance policy providing benefits only for long-term care, nursing home care, home health care, community-based care, or any combination thereof.

(7) GROUP PURCHASER.—The term "group purchaser" means any person (as defined under paragraph (9) of section 3 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(9)) or entity that purchases or pays for health benefits (such as provider or hospital benefits) on behalf of two or more participants or beneficiaries in connection with an employee health benefit plan. A health plan purchasing cooperative established under section 131 shall not be considered to be a group purchaser.

(8) HEALTH PLAN ISSUER.—The term "health plan issuer" means any entity that is licensed (prior to or after the date of enactment of this Act) by a State to offer a group health plan or an individual health plan.

(9) HEALTH STATUS.—The term "health status" includes. with respect to an individual, medical condition, claims experience, receipt of health care, medical history, genetic information, evidence of insurability (including conditions arising out of acts of domestic violence), or disability.

(10) PARTICIPANT.—The term "participant" has the meaning given such term under section 3(7) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(7)).

(11) PLAN SPONSOR.—The term "plan sponsor" has the meaning given such term under section 3(16)(B) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(16)(B)).

(12) SECRETARY.—The term "Secretary", unless specifically provided otherwise, means the Secretary of Labor.

(13) STATE.—The term "State" means each of the several States, the District of Columbia, Puerto Rico, the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

Subtitle A—Group Market Rules

SECTION 101. GUARANTEED AVAILABILITY OF HEALTH COVERAGE.

In General.—

(1) NONDISCRIMINATION.—Except as provided in subsection (b), section 102 and section 103—

(A) a health plan issuer offering a group health plan may not decline to offer whole group coverage to a group purchaser desiring to purchase such coverage; and

(B) an employee health benefit plan or a health plan issuer offering a group health plan may establish eligibility, continuation of eligibility, enrollment, or premium; contribution requirements under the terms of such plan, except that such requirements shall not be based on health status (as defined in section 100(9)).

(2) HEALTH PROMOTION AND DISEASE PREVENTION.—Nothing in this subsection shall prevent an employee health benefit plan or a health plan issuer from establishing premium; discounts or modifying otherwise applicable copayments or deductibles in return for adherence to programs of health promotion and disease prevention.

(b) APPLICATION OF CAPACITY LIMITS.—

(1) IN GENERAL.—Subject to paragraph (2), a health plan issuer offering a group health plan may cease offering coverage to group purchasers under the plan if—

(A) the health plan issuer ceases to offer coverage to any additional group purchasers; and

(B) the health plan issuer can demonstrate to the applicable certifying authority (as defined in section 142(d)), if required, that its financial or provider capacity to serve previously covered participants and beneficiaries (and additional participants and beneficiaries who will be expected to enroll because of their affiliation with a group purchaser or such previously covered participants or beneficiaries) will be impaired if the health plan issuer is required to offer coverage to additional group purchasers.

Such health plan issuer shall be prohibited from offering coverage after a cessation in offering coverage under this paragraph for a 6-month period or until the health plan issuer can demonstrate to the applicable certifying authority (as defined in section 142(d)) that the health plan issuer has adequate capacity, whichever is later.

(2) FIRST-COME-FIRST-SERVED.—A health plan issuer offering a group health plan is only eligible to exercise the limitations provided for in paragraph (1) if the health plan issuer offers coverage to group purchasers under such plan on a first-come-first-served basis or other basis established by a State to ensure a fair opportunity to enroll in the plan and avoid risk selection.

(e) CONSTRUCTION.—

(1) MARKETING OF GROUP HEALTH PLANS.—Nothing in this section shall be construed to prevent a State from requiring health plan issuers offering group health plans to actively market such plans.

(2) INVOLUNTARY OFFERING OF GROUP HEALTH PLANS.—Nothing is this section shall be construed to require a health plan issuer to involuntarily offer group health plans in a particular market. For the purposes of this paragraph, the term "market" means either the large employer market or the small employer market (as defined under applicable State law, or if not so defined, an employer with not more than 50 employees).

SEC. 102. GUARANTEED RENEWABILITY OF HEALTH COVERAGE.

(A) IN GENERAL.—

(1) GROUP PURCHASER.—Subject to subsections (b) and (c), a group health plan shall be renewed or continued in force by a health plan issuer at the option of the group purchaser, except that the requirement of this subparagraph shall not apply in the case of—

(A) the nonpayment of premiums or contributions by the group purchaser in accordance with the terms of the group health plan or where the health plan issuer has not received timely premium payments;

(B) fraud or misrepresentation of material fact on the part of the group purchaser;

(C) the termination of the group health plan in accordance with subsection (b); or

(D) the failure of the group purchaser to meet contribution or participation requirements in accordance with paragraph (3).

(2) PARICIPANT.—Subject to subsections (b) and (c), coverage under an employee health benefit plan or group health plan shall be renewed or continued in force, if the group purchaser elects to continue to provide coverage under such plan, at the option of the participant (or beneficiary where such right exists under the terms of the plan or under applicable law), except that the requirement of this paragraph shall not apply in the case of—

(A) the nonpayment of premiums or contributions by the participant or beneficiary in accordance with the terms of the employee health benefit plan or group health plan or where such plan has not received timely premium payments.

(B) fraud or misrepresentation of material fact on the part of the participant or beneficiary relating to an application for coverage or claim for benefits;

(C) the termination of the employee health benefit plan or group health plan;

(D) loss of eligibility for continuation coverage as described in part 6 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1161 et seq.); or

(E) failure of a participant or beneficiary to meet requirements for eligibility for coverage under an employee health benefit plan or group health plan that are not prohibited by this title.

(3) RULES OF CONSTRUCTION.—Nothing in this subsection, nor in section 101(a), shall be construed to—

(A) preclude a health plan issuer from establishing employer contribution rules or group participation rules for group health plans as allowed under applicable State law;

(B) preclude a plan defined in section 3(37) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1102(37)) from establishing employer contribution rules or group participation rules; or

(C) permit individuals to decline coverage under an employee health benefit plan if such right is not otherwise available under such plan.

(b) TERMINATION OF GROUP HEALTH PLANS.—

(1) PARTICULAR TYPE OF GROUP HEALTH PLAN NOT OFFERED.—In any case in which a health plan issuer decides to discontinue offering a particular type of group health plan. A group health plan of such type may be discontinued by the health plan issuer only if—

(A) the health plan issuer provides notice to each group purchaser covered under a group health plan of this type (and participants and beneficiaries covered under such group health plan) of such discontinuation at least 90 days prior to the date of the discontinuation of such plan;

(B) the health plan issuer offers to each group purchaser covered under a group health plan of this type, the option to purchase any other group health plan currently being offered by the health plan issuer; and

(C) in exercising the option to discontinue a group health plan of this type and in offering one or more replacement plans, the health plan issuer acts uniformly without regard to the health status of participants or beneficiaries covered under the group health plan, or new participants or beneficiaries who may become eligible for coverage under the group health plan.

(2) DISCONTINUANCE OF ALL GROUP HEALTH PLANS.—

(A) IN GENERAL.—In any case in which a health plan issuer elects to discontinue offering all group health plans in a State, a group health plan may be discontinued by the health plan issuer only if—

(i) the health plan issuer provides notice to the applicable certifying authority (as defined in section 142(d)) and to each group purchaser (and participants and beneficiaries covered under such group health plan) of such discontinuation at least 180 days prior to the date of the expiration of such plan, and

(ii) all group health plans issued or delivered for issuance in the State or discontinued and coverage under such plans is not renewed.

(B) APPLICATION OF PROVISIONS.—The provisions of this paragraph and paragraph (3) may be applied separately by a health plan issuer—

(i) to all group health plans offered to small employers (as defined under applicable State law, or if not so defined, an employer with not more than 50 employees); or

(ii) to all other group health plans offered by the health plan issuer in the State.

(3) PROHIBITION ON MARKET REENTRY.—In the case of a discontinuation under paragraph (2), the health plan issuer may not provide for the issuance of any group health plan in the market sector (as described in paragraph (2)(B)) in which issuance of such group health plan was discontinued in the State involved during the 5-year period beginning on the date of the discontinuation of the last group health plan not so renewed.

TREATMENT OF NETWORK PLANS.—

(1) GEOGRAPHIC LIMITATIONS.—A network plan (as defined in paragraph (2)) may deny continued participation under such plan to participants or beneficiaries who neither live, reside, nor work in an area in which such network plan is offered, but only if such denial is applied uniformly, without regard to health status of particular participants or beneficiaries.

(2) NETWORK PLAN.—As used in paragraph (1), the term "network plan" means an employee health benefit plan or a group health plan that arranges for the financing and delivery of health care services to participants or beneficiaries covered under such plan, in whole or in part, through arrangements with providers.

(d) COBRA COVERAGE.—Nothing in subsection (a)(2)(E) or subsection (c) shall be construed to affect any right to COBRA continuation coverage as described in part 6 of subtitle B of title I of the employee Retirement Income Security Act of 1974 (29 U.S.C. 1161 et seq.).

SEC. 103. PORTABILITY OF HEALTH COVERAGE AND LIMITATION ON PREEXISTING CONDITION EXCLUSIONS.

(a) IN GENERAL.—An employee health benefit plan or a health plan issuer offering a group health plan may impose a limitation or exclusion of benefits relating to treatment of a preexisting condition based on the fact that the condition existed prior to the coverage of the participant or beneficiary under the plan only if—

(1) the limitation or exclusion extends for a period of not more than 12 months after the date of enrollment in the plan;

(2) the limitation or exclusion does not apply to an individual who, within 30 days of the date of birth or placement for adoption (as determined under section 609(c)(3)(B) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1169(c)(3)(B)), was covered under the plan; and

(3) the limitation or exclusion does not apply to a pregnancy.

(b) CREDITING OF PREVIOUS QUALIFYING COVERAGE.—

(1) IN GENERAL.—Subject to paragraph (4), an employee health benefit plan or a health plan issuer offering a group health plan shall provide that if a participant or beneficiary is in a period of previous qualifying coverage as of the date of enrollment under such plan, any period of exclusion or limitation of coverage with respect to a preexisting condition shall be reduced by 1 month for each month in which the participant or beneficiary was in the period of previous qualifying coverage. With respect to an individual described in subsection (a)(2) who maintains continuous coverage, no limitation or exclusion of benefits relating to treatment of a preexisting condition may be applied to a child within the child's first 12 months of life or within 12 months after the placement of a child for adoption.

(2) DISCHARGE OF DUTY.—An employee health benefit plan shall provide documentation of coverage to participants and beneficiaries who coverage is terminated under the plan. Pursuant to regulations promulgated by the Secretary, the duty of an employee health benefit plan to verify previous qualifying coverage with respect to a participant or beneficiary is effectively discharged when such employee health benefit plan provides documentation to a participant or beneficiary that includes the following information:

(A) the dates that the participant or beneficiary was covered under the plan; and

(B) the benefits and cost-sharing arrangement available to the participant or beneficiary under such plan.

An employee health benefit plan shall retain the documentation provided to a participant or beneficiary under subparagraphs (A) and (B) for at least the 12-month period following the date on which the participant or beneficiary ceases to be covered under the plan. Upon request, an employee health benefit plan shall provide a second copy of such documentation or such participant or beneficiary within the 12-month period following the date of such ineligibility.

(3) DEFINITIONS.—As used in this section:

(A) PREVIOUS QUALIFYING COVERAGE.—The term "previous qualifying coverage" means the period beginning on the date—

(i) a participant or beneficiary is enrolled under an employee health benefit plan or a group health plan, and ending on the date the participant or beneficiary is not so enrolled; or

(ii) an individual is enrolled under an individual health plan (as defined in section 113) or under a public or private health plan established under Federal or State law, and ending on the date the individual is not so enrolled;

for a continuous period of more than 30 days (without regard to any waiting period).

(B) LIMITATION OR EXCLUSION OF BENEFITS RELATING TO TREATMENT OF A PREEXISTING CONDITION.—The term "limitation or exclusion of benefits relating to treatment of a preexisting condition" means a limitation or exclusion of benefits imposed on an individual based on a preexisting condition of such individual.

(4) EFFECT OF PREVIOUS COVERAGE.—An employee health benefit plan or a health plan issuer offering a group health plan may impose a limitation or exclusion of benefits relating to the treatment of a preexisting condition, subject to the limits in subsection (a)(1), only to the extent that such service or benefit was not previously covered under the group health plan, employee health benefit plan, or individual health plan in which the participant or beneficiary was enrolled immediately prior to enrollment in the plan involved.

(c) LATE ENROLLEES.—Except as provided in section 104, with respect to a participant or beneficiary enrolling in an employee health benefit plan or group health plan during a time that is other than the first opportunity to enroll during an enrollment period of at least 30 days, coverage with respect to benefits or services relating to the treatment of a preexisting condition in accordance with subsection (a) and (b) may be excluded except the period of such exclusion may not exceed 18 months beginning on the date of coverage under the plan.

(d) AFFILIATION PERIODS.—With respect to a participant or beneficiary who would otherwise be eligible to receive benefits under an employee health benefit plan or a group health plan but for the operation of a preexisting condition limitation or exclusion, if such plan does not utilize a limitation or exclusion of benefits relating to the treatment of a preexisting condition, such plan may impose an affiliation period on such participant or beneficiary not to exceed 60 days (or in the case of a late participant or beneficiary described in subsection (c), 90 days) from the date on which the participant or beneficiary would otherwise be eligible to receive benefits under the plan. An employee health benefit plan or a health plan issuer offering a group health plan may also use alternative methods to address adverse section as approved by the applicable certifying authority (as defined in section 142(d)). During such an affiliation period, the plan may not be required to provide health care services or benefits and no premium shall be charged to the participant or beneficiary.

(e) PREEXISTING CONDITIONS.—For purposes of this section, the term "preexisting condition" means a condition, regardless of the cause of the condition, for which medical advice, diagnosis, care, or treatment was recommended or received within the 6-month period ending on the day before the effective date of the coverage (without regard to any waiting period).

(f) STATE FLEXIBILITY.—Nothing in this section shall be construed to preempt State laws that—

(1) require health plan issuers to impose a limitation or exclusion of benefits relating to the treatment of a preexisting condition for periods that are shorter than those provided for under this section; or

(2) allow individuals, participants, and beneficiaries to be considered to be in a period of previous qualifying coverage if such individual, participant, or beneficiary experiences a lapse in coverage that is greater than the 30-day period provided for under subsection (b)(3);

unless such laws are preempted by section 514 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1144).

SEC. 104. SPECIAL ENROLLMENT PERIODS.

In the case of a participant, beneficiary or family member who—

(1) through marriage, separation, divorce, death, birth or placement of a child for adoption, experiences a change in family composition affecting eligibility under a group health plan, individual health plan, or employee health benefit plan;

(2) experiences a change in employment status, as described in section 603(2) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1163(2)), that causes the loss of eligibility for coverage, other than COBRA continuation coverage under a group health plan, individual health plan, or employee health benefit plan; or

(3) experiences a loss of eligibility under a group health plan, individual health plan, or employee health benefit plan because of a change in the employment status of a family member;

each employee health benefit plan and each group health plan shall provide for a special enrollment period extending for a reasonable time after such event that would permit the participant to change the individual or family basis of coverage or to enroll in the plan if coverage would have been available to such individual, participant, or beneficiary but for failure to enroll during a previous enrollment period. Such a special enrollment

period shall ensure that a child born or placed for adoption shall be deemed to be covered under the plan as of the date of such birth or placement for adoption if such child is enrolled within 30 days of the date of such birth or placement for adoption.

SEC. 105. DISCLOSURE OF INFORMATION.

(a) DISCLOSURE OF INFORMATION BY HEALTH PLAN ISSUER.—

(1) IN GENERAL.—In connection with the offering of any group health plan to a small employer (as defined under applicable State law, or if not so defined, an employer with not more than 50 employees), a health plan issuer shall make a reasonable disclosure to such employer, as part of its solicitation and sales materials, of—

(A) the provisions of such group health plan concerning the health plan issuer's right to change premium rates and the factors that may affect changes in premium rates.

(B) the provisions of such group health plan relating to renewability of coverage;

(C) the provisions of such group health plan relating to any preexisting condition provision; and

(D) descriptive information about the benefits and premiums available under all group health plans for which the employer is qualified.

Information shall be provided to small employers under this paragraph in a manner determined to be understandable by the average small employer, and shall be sufficiently accurate and comprehensive to reasonably inform small employers, participants and beneficiaries of their rights and obligations under the group health plan.

(2) EXCEPTION.—With respect to the requirement of paragraph (1), any information that is proprietary and trade secret information under applicable law shall not be subject to the disclosure requirements of such paragraph.

(3) CONSTRUCTION.—Nothing in this subsection shall be construed to preempt State reporting and disclosure requirements to the extent that such requirements are not preempted under section 514 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1144).

(b) DISCLOSURE OF INFORMATION TO PARTICIPANTS AND BENEFICIARIES.—

(1) IN GENERAL.—Section 104(b)(1) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1024(b)(1)) is amended in the matter following subparagraph (B)—

(A) by striking "102(a)(1)," and inserting "102(a)(1) that is not a material reduction in covered services or benefits provided,"; and

(B) by adding at the end thereof the following new sentences: "If there is a modification or change described in section 102(a)(1) that is a material reduction in covered services or benefits provided, a summary description of such modification or change shall be furnished to participants not later than 60 days after the date of the adoption of the modification or change. In the alternative, the plan sponsors may provide such description at regular intervals of not more than 90 days. The Secretary shall issue regulations within 180 days after the date of enactment of the Health Insurance Reform Act of 1996, providing alternative mechanisms to delivery by mail through which employee health benefit plans may notify participants of material reductions in covered services or benefits.".

(2) PLAN DESCRIPTION AND SUMMARY.—Section 102(b) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1022(b)) is amended—

(A) by inserting "including the office or title of the individual who is responsible for approving or denying claims for coverage of benefits" after "type of administration of the plan";

(B) by inserting "including the name of the organization responsible for financing claims" after "source of financing of the plan"; and

(C) by inserting "including the office, contact, or title of the individual at the Department of Labor through which participants may seek assistance or information regarding their rights under this Act and title I of the Health Insurance Reform Act of 1996 with respect to health benefits that are not offered through a group health plan." after "benefits under the plan".

Subtitle B—Individual Market Rules

SEC. 110. INDIVIDUAL HEALTH PLAN PORTABILITY.

(a) LIMITATION ON REQUIREMENTS.—

(1) IN GENERAL.—Except as provided in subsections (b) and (c), a health plan issuer described in paragraph (3) may not, with respect to an eligible individual (as defined in subsection (b)) desiring to enroll in an individual health plan—

(A) decline to offer coverage to such individual, or deny enrollment to such individual based on the health status of the individual; or

(B) impose a limitation or exclusion of benefits otherwise covered under the plan for the individual based on a preexisting condition unless such limitation or exclusion could have been imposed if the individual remained covered under a group health plan or employee health benefit plan (including providing credit for previous coverage in the manner provided under subtitle A).

(2) HEALTH PROMOTION AND DISEASE PREVENTION.—Nothing in this subsection shall be construed to prevent a health plan issuer offering an individual health plan from establishing premium discounts or modifying otherwise applicable copayments or deductibles in return for adherence to programs of health promotion or disease prevention.

(3) HEALTH PLAN ISSUER.—A health plan issuer described in this paragraph in a health plan issuer that issues or renews individual health plans.

(4) PREMIUMS.—Nothing in this subsection shall be construed to affect the determination of a health plan issuer as to the amount of the premium payable under an individual health plan under applicable State law.

(b) DEFINITION OF ELIGIBLE INDIVIDUAL.—As used in subsection (a)(1), the term "eligible individual" means an individual who—

(1) was a participant or beneficiary enrolled under one or more group health plans, employee health benefit plans, or public plans established under Federal or State law, for not less than 18 months (without a lapse in coverage of more than 30 consecutive days) immediately prior to the date on which the individual desired to enroll in the individual health plan.

(2) is not eligible for coverage under a group health plan or an employee health benefit plan;

(3) has not had coverage terminated under a group health plan or employee health benefit plan for failure to make required premium payments or contributions, or for fraud or misrepresentation of material fact; and

(4) has, if applicable, accepted and exhausted the maximum required period of continuous coverage as described in section 602(2)(A) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1162(2)(A)) or under an equivalent State program.

(c) APPLICABLE OF CAPACITY LIMIT.—

(1) IN GENERAL.—Subject to paragraph (2), a health plan issuer offering coverage to individuals under an individual health plan may cease enrolling individuals under the plan if—

(A) the health plan issuer ceases to enroll any new individuals; and

(B) the health plan issuer can demonstrate to the applicable certifying authority (as defined in section 142(d)), if required, that its financial or provider capacity to serve previously covered individuals will be impaired if the health plan issuer is required to enroll additional individuals.

Such a health plan issuer shall be prohibited from offering coverage after a cessation in offering coverage under this paragraph for a 6-month period or until the health plan issuer can demonstrate to the applicable certifying authority (as defined in section 142(d)) that the health plan issuer has adequate capacity, whichever is later.

(2) FIRST-COME-FIRST-SERVED.—A health plan issuer offering coverage to individuals under an individual health plan is only eligible to exercise the limitations provided for in paragraph (1) if the health plan issuer provides for enrollment of individuals under such plan on a first-come-first-served basis or other basis established by a State to ensure a fair opportunity to enroll in the plan and avoid risk selection.

(d) MARKET REQUIREMENT.—

(1) IN GENERAL.—The provisions of subsection (a) shall not be construed to require that a health plan issuer offering group health plans to group purchasers offer individual health plans to individuals.

(2) CONVERSION POLICIES.—A health plan issuer offering group health plans to group purchasers under this title shall not be deemed to be a health plan issuer offering an individual health plan solely because such health plan issuer offers a conversion policy.

(3) MARKETING OF PLANS.—Nothing in this section shall be construed to prevent a State from requiring health plan issuers offering coverage to individuals under an individual health plan to actively market such plan.

SEC. 111. GUARANTEED RENEWABILITY OF INDIVIDUAL HEALTH COVERAGE.

(a) IN GENERAL.—Subject to subsections (b) and (c), coverage for individuals under an individual health plan shall be renewed or continued in force by a health plan issuer at the option of the individual, except that the requirement of this subsection shall not apply in the case of—

(1) the nonpayment of premiums or contributions by the individual in accordance with the terms of the individual health plan or where the health plan issuer has not received timely premium payments;

(2) fraud or misrepresentation of material fact on the part of the individual; or

(3) the termination of the individual health plan in accordance with subsection (b).

(b) TERMINATION OF INDIVIDUAL HEALTH PLANS.—

(1) PARTICULAR TYPE OF INDIVIDUAL HEALTH PLAN NOT OFFERED.—In any case in which a health plan issuer decides to discontinue offering a particular type of individual health plan to individuals, an individual health plan may be discontinued by the health plan issuer only if—

(A) the health plan issuer provides notice to each individual covered under the plan of such discontinuation at least 90 days prior to the date of the expiration of the plan.

(B) the health plan issuer offers to each individual covered under the plan the option to purchase any other individual health plan

currently being offered by the health plan issuer to individuals; and

(C) in exercising the option to discontinue the individual health plan and in offering one or more replacement plans, the health plan issuer acts uniformly without regard to the health status of particular individuals.

(21) DISCONTINUANCE OF ALL INDIVIDUAL HEALTH PLANS.—In any case in which a health plan issuer elects to discontinue all individual health plans in a State, an individual health plan may be discontinued by the health plan issuer only if—

(A) the health plan issuer provides notice to the applicable certifying authority (as defined in section 142(d)) and to each individual covered under the plan of such discontinuation at least 180 days prior to the date of the discontinuation of the plan; and

(B) all individual health plans issued or delivered for issuance in the State are discontinued and coverage under such plans is not renewed.

(3) PROHIBITION ON MARKET REENTRY.—In the case of a discontinuation under paragraph (2), the health plan issuer may not provide for the issuance of any individual health plan in the State involved during the 5-year period beginning on the date of the discontinuation of the last plan not so renewed.

(c) TREATMENT OF NETWORK PLANS.—

(1) GEOGRAPHIC LIMITATIONS.—A health plan issuer which offers a network plan (as defined in paragraph (2)) may deny continued participation under the plan to individuals who neither live, reside, nor work in an area in which the individual health plan is offered, but only if such denial is applied uniformly, without regard to health status of particular individuals.

(2) NETWORK PLAY.—As used in paragraph (1), the term "network plan" means an individual health plan that arranges for the financing and delivery of health care services to individuals covered under such health plan, in whole or in part, through arrangements with providers.

SEC. 112. STATE FLEXIBILITY IN INDIVIDUAL MARKET REFORMS.

(a) IN GENERAL.—With respect to any State law with respect to which the Governor of the State notifies the Secretary of Health and Human Services that such State law will achieve the goals of sections 110 and 111, and that is in effect on, or enacted after, the date of enactment of this Act (such as laws providing for guaranteed issue, open enrollment by one or more health plan issuers, high-risk pools, or mandatory conversion policies), such State law shall apply in lieu of the standards described in sections 110 and 111 unless the Secretary of Health and Human Services determines, after considering the criteria described in subsection (b)(1), in consultation with the Governor and Insurance Commissioner or chief insurance regulatory official of the State, that such State law does not achieve the goals of providing access to affordable health care coverage for those individuals described in sections 110 and 111.

(b) DETERMINATION.—

(1) IN GENERAL.—In making a determination under subsection (a), the Secretary of Health and Human Services shall only—

(A) evaluate whether the State law or program provides guaranteed access to affordable coverage to individuals described in sections 110 and 111;

(B) evaluate whether the State law or program provides coverage for preexisting conditions (as defined in section 103(e)) that were covered under the individuals' previous group health plan or employee health benefit plan for individuals described in sections 110 and 111.

(C) evaluate whether the State law or program provides individuals described in sections 110 and 111 with a choice of health plans or a health plan providing comprehensive coverage, and

(D) evaluate whether the application of the standards described in sections 110 and 111 will have an adverse impact on the number of individuals in such State having access to affordable coverage.

(2) NOTICE OF INTENT.—If, within 6 months after the date of enactment of this Act, the Governor of a State notifies the Secretary of Health and Human Services that the State intends to enact a law, or modify an existing law, described in subsection (a), the Secretary of Health and Human Services may not make a determination under such subsection until the expiration of the 12-month period beginning on the date on which such notification is made, or until January 1, 1998, whichever is later. With respect to a State that provides notice under this paragraph and that has a legislature that does not meet within the 12-month period beginning on the date of enactment of this Act, the Secretary shall not make a determination under subsection (a) prior to January 1, 1998.

(3) NOTICE TO STATE.—If the Secretary of Health and Human Services determines that a State law or program does not achieve the goals described in subsection (a), the Secretary of Health and Human Services shall provide the State with adequate notice and reasonable opportunity to modify such law or program to achieve such goals prior to making a final determination under subsection (a).

(c) ADOPTION OF NAIC MODEL.—If, not later than 9 months after the date of enactment of this Act—

(1) the National Association of Insurance Commissioners (hereafter referred to as the "NAIC"), through a process which the Secretary of Health and Human Services determines has included consultation with representatives of the insurance industry and consumer groups, adopts a model standard or standards for reform of the individual health insurance market, and

(2) the Secretary of Health and Human Services determines, within 30 days of the adoption of such NAIC standard or standards, that such standards comply with the goals of sections 110 and 111:

a State that elects to adopt such model standards or substantially adopt such model standards shall be deemed to have met the requirements of sections 110 and 111 and shall be subject to a determination under subsection (a).

SEC. 113. DEFINITION.

(a) IN GENERAL.—As used this title, the term "individual health plan" means any contract, policy, certificate or other arrangement offered to individuals by a health plan issuer that provides or pays for health benefits (such as provider and hospital benefits) and that is not a group health plan under section 2(6).

(b) ARRANGEMENTS NOT INCLUDED.—Such term does not include the following, or any combination thereof:

(1) Coverage only for accident, or disability income insurance, or any combination thereof.

(2) Medicare supplemental health insurance (as defined under section 1882(g)(1) of the Social Security Act).

(3) Coverage issued as a supplement to liability insurance.

(4) Liability insurance, including general liability insurance and automobile liability insurance.

(5) Workers' compensation or similar insurance.

(6) Automobile medical payment insurance.

(7) Coverage for a specified disease or illness.

(8) Hospital of fixed indemnity insurance.

(9) Short-term limited duration insurance.

(10) Credit-only, dental-only, or vision-only insurance.

(11) A health insurance policy providing benefits only for long-term care, nursing home care, home health care, community-based care, or any combination thereof.

Subtitle C—COBRA Clarifications

SEC. 121. COBRA CLARIFICATIONS.

(a) PUBLIC HEALTH SERVICE ACT.—

(1) PERIOD OF COVERAGE.—Section 2202(2) of the Public Health Service Act (42 U.S.C. 300bb-2(2)) is amended—

(A) in subparagraph (A)—

(i) by transferring the sentence immediately preceding clause (iv) so as to appear immediately following such clause (iv); and

(ii) in the last sentence (as so transferred)—

(I) by inserting ", or a beneficiary-family member of the individual," after "an individual"; and

(II) by striking "at the time of a qualifying event described in section 2203(2)" and inserting "at any time during the initial 18-month period of continuing coverage under this title";

(B) in subparagraph (D)(i), by inserting before ", or" the following: ", except that the exclusion or limitation contained in this clause shall not be considered to apply to a plan under which a preexisting condition or exclusion does not apply to an individual otherwise eligible for continuation coverage under this section because of the provision of the Health Insurance Reform Act of 1996", and

(C) in subparagraph (E), by striking "at the time of a qualifying event described in section 2203(2)" and inserting "at any time during the initial 18-month period of continuing coverage under this title",

(2) ELECTION.—Section 2205(1)(C) of the Public Health Service Act (42 U.S.C. 300bb-5(1)(C)) is amended—

(A) in clause (i), by striking "or" at the end thereof.

(B) in clause (ii), by striking the period and inserting ", or", and

(C) by adding at the end thereof the following new clause:

"(iii) in the case of an individual described in the last sentence of section 2202(2)(A), or a beneficiary-family member of the individual, the date such individual is determined to have been disabled.".

(3) NOTICES.—Section 2206(3) of the Public Health Service Act (42 U.S.C. 300bb-6(3)) is amended by striking "at the time of a qualifying event described in section 2203(2)" and inserting "at any time during the initial 18-month period of continuing coverage under this title".

(4) BIRTH OR ADOPTION OF A CHILD.—Section 2208(3)(A) of the Public Health Service Act (42 U.S.C. 300bb-8(3)(A)) is amended by adding at the end thereof the following new flush sentence:

"Such term shall also include a child who is born to or placed for adoption with the covered employee during the period of continued coverage under this title.".

(b) EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.—

(1) PERIOD OF COVERAGE.—Section 602(2) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1162(2)) is amended—

(A) in the last sentence of subparagraph (A)—

(i) by inserting ", or a beneficiary-family member of the individual." after "an individual"; and

(ii) by striking "at the time of a qualifying event described in section 603(2)" and inserting "at any time during the initial 18-month period of continuing coverage under this part",

(B) in subparagraph (D)(i), by inserting before, ", or" the following ", except that the exclusion or limitation contained in this clause shall not be considered to apply to a plan under which a preexisting condition or exclusion does not apply to an individual otherwise eligible for continuation coverage under this section because of the provision of the Health Insurance Reform Act of 1996"; and

(C) in subparagraph (E), by striking "at the time of a qualifying event described in section 603(2)" and inserting "at any time during the initial 18-month period of continuing coverage under this part".

(2) ELECTION.—Section 605(1)(C) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1165(1)(C)) is amended—

(A) in clause (i), by striking "or" at the end thereof;

(B) in clause (ii), by striking the period and inserting ", or"; and

(C) by adding at the end thereof the following new clause:

"(iii) in the case of an individual described in the last sentence of section 602(2)(A), or a beneficiary-family member of the individual, the date such individual is determined to have been disabled.".

(3) NOTICES.—Section 606(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1166(3)) is amended by striking "at the time of a qualifying event described in section 603(2)" and inserting "at any time during the initial 18-month period of continuing coverage under this part".

(4) BIRTH OR ADOPTION OF A CHILD.—Section 607(3)(A) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1167(3)) is amended by adding at the end thereof the following new flush sentence:

"Such term shall also include a child who is born to or placed for adoption with the covered employee during the period of continued coverage under this part.".

(c) INTERNAL REVENUE CODE OF 1986.—

(1) PERIOD OF COVERAGE.—Section 4980B(f)(2)(B) of the Internal Revenue Code of 1986 is amended—

(A) in the last sentence of clause (i) by striking "at the time of a qualifying event described in paragraph (3)(B)" and inserting "at any time during the initial 18-month period of continuing coverage under this section".

(B) in clause (iv)(I), by inserting before ", or" the following: ", except that the exclusion or limitation contained in this subclause shall not be considered to apply to a plan under which a preexisting condition or exclusion does not apply to an individual otherwise eligible for continuation coverage under this subsection because of the provision of the Health Insurance Reform Act of 1996"; and

(C) in clause (v), by striking "at the time of a qualifying event described in paragraph (3)(B)" and inserting "at any time during the initial 18-month period of continuing coverage under this section".

(2) ELECTION.—Section 4980B(f)(5)(A)(ii) of the Internal Revenue Code of 1986 is amended—

(A) in subclause (I), by striking "or" at the end thereof;

(B) in subclause (II), by striking the period and inserting ", or", and

(C) by adding at the end thereof the following new subclause:

"(III) in the case of an qualified beneficiary described in the last sentence of paragraph (2)(B)(i), the date such individual is determined to have been disabled.".

(3) NOTICES.—Section 4980B(f)(6)(C) of the Internal Revenue Code of 1986 is amended by striking "at the time of a qualifying event described in paragraph (3)(B)" and inserting "at any time during the initial 18-month period of continuing coverage under this section".

(4) BIRTH OR ADOPTION OF A CHILD.—Section 4980B(g)(1)(A) of the Internal Revenue Code of 1986 is amended by adding at the end thereof the following new flush sentence:

"Such term shall also include a child who is born to or placed for adoption with the covered employee during the period of continued coverage under this section.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to qualifying events occurring on or after the date of enactment of this Act for plan years beginning after December 31, 1997.

(e) NOTIFICATION OF CHANGES.—Not later than 60 days prior to the date on which this section becomes effective, each group health plan (covered under title XXII of the Public Health Service Act, part 6 of subtitle B of title I of the Employee Retirement Income Security Act of 1974, and section 4980B(f) of the Internal Revenue Code of 1986) shall notify each qualified beneficiary who has elected continuation coverage under such title, part or section of the amendments made by this section.

Subtitle D—Private Health Plan Purchasing Cooperatives

SEC. 131. PRIVATE HEALTH PLAN PURCHASING COOPERATIVES.

(a) DEFINITION.—As used in this title, the term "health plan purchasing cooperative" means a group of individuals or employers that, on a voluntary basis and in accordance with this section, form a cooperative for the purpose of purchasing individual health plans or group health plans offered by health plan issuers. A health plan issuer, agent, broker or any other individual or entity engaged in the sale of insurance may not underwrite a cooperative.

(b) CERTIFICATION.—

(1) IN GENERAL.—If a group described in subsection (a) desires to form a health plan purchasing cooperative in accordance with this section and such group appropriately notifies the State and the Secretary of such desire, the State, upon a determination that such group meets the requirements of this section, shall certify the group as a health plan purchasing cooperative. The State shall make a determination of whether such group meets the requirements of this section in a timely fashion. Each such cooperative shall also be registered with the Secretary.

(2) STATE REFUSAL TO CERTIFY.—If a State fails to implement a program for certifying health plan purchasing cooperatives in accordance with the standards under this title, the Secretary shall certify and oversee the operations of such cooperative in such State.

(3) INTERSTATE COOPERATIVES.—For purposes of this section a health plan purchasing cooperative operating in more than one State shall be certified by the State in which the cooperative is domiciled. States may enter into cooperative agreements for the purpose of certifying and overseeing the operation of such cooperatives. For purposes of this subsection, a cooperative shall be considered to be domiciled in the State in which most of the members of the cooperative reside.

(c) BOARD OF DIRECTORS.—

(1) IN GENERAL.—Each health plan purchasing cooperative shall be governed by a Board of Directors that shall be responsible for ensuring the performance of the duties of the cooperative under this section. The Board shall be composed of a board cross-section of representatives of employers, employees, and individuals participating in the cooperative. A health plan issuer, agent, broker or any other individual or entity engaged in the sale of individual health plans or group health plans may not hold or control any right to vote with respect to a cooperative.

(2) LIMITATION ON COMPENSATION.—A health plan purchasing cooperative may not provide compensation to members of the Board of Directors. The cooperative may provide reimbursements to such members for the reasonable and necessary expenses incurred by the members in the performance of their duties as members of the Board.

(3) CONFLICT OF INTEREST.—No member of the Board of Directors (or family members of such members) nor any management personnel of the cooperative may be employed by, be a consultant for, be a member of the board of directors or, be affiliated with an agent of, or otherwise be a representative of any health plan issuer, health care provider, or agent or broker. Nothing in the preceding sentence shall limit a member of the Board from purchasing coverage offered through the cooperative.

(d) MEMBERSHIP AND MARKETING AREA.—

(1) MEMBERSHIP.—A health plan purchasing cooperative may establish limits on the maximum size of employers who may become members of the cooperative, and may determine whether to permit individuals to become members. Upon the establishment of such membership requirements, the cooperative shall, except as provided in subparagraph (B), accept all employers (or individuals) residing within the area served by the cooperative who meet such requirements as members on a first-come, first-served basis, or on another basis established by the State to ensure equitable access to the cooperative.

(2) MARKETING AREA.—A State may establish rules regarding the geographic area that must be served by a health plan purchasing cooperative. With respect to a State that has not established such rules, a health plan purchasing cooperative operating in the State shall define the boundaries of the area to be served by the cooperative, except that such boundaries may not be established on the basis of health status of the populations that reside in the area.

(e) DUTIES AND RESPONSIBILITIES.—

(1) IN GENERAL.—A health plan purchasing cooperative shall—

(A) enter into agreements with multiple, unaffiliated health plan issuers, except that the requirement of this subparagraph shall not apply in regions (such as remote or frontier areas) in which compliance with such requirement is not possible.

(B) enter into agreements with employers and individuals who become members of the cooperative;

(C) participate in any program of risk-adjustment or reinsurance, or any similar program, that is established by the State.

(D) prepare and disseminate comparative health plan materials (including information about cost, quality, benefits, and other information concerning group health plans and

individual health plans offered through the cooperative);

(E) actively market to all eligible employers and individuals residing within the service area; and

(F) act as an ombudsman for group health plan or individual health plan enrollees.

(2) PERMISSIBLE ACTIVITIES.—A health plan purchasing cooperative may perform such other functions as necessary to further the purposes of this title, including—

(A) collecting and distributing premiums and performing other administrative functions;

(B) collecting and analyzing surveys of enrollee satisfaction;

(C) charging membership fee to enrollees (such fees may not be based on health status) and charging participation fees to health plan issuers;

(D) cooperating with (or accepting as members) employers who provide health benefits directly to participants and beneficiaries only for the purpose of negotiating with providers, and

(E) negotiating with health care providers and health plan issuers.

(f) LIMITATIONS ON COOPERATIVE ACTIVITIES.—A health plan purchasing cooperative shall not—

(1) perform any activity relating to the licensing of health plan issuers.

(2) assume financial risk directly or indirectly on behalf of members of a health plan purchasing cooperative relating to any group health plan or individual health plan;

(3) establish eligibility, continuation of eligibility, enrollment, or premium contribution requirements for participants, beneficiaries, or individuals based on health status;

(4) operate on a for-profit or other basis where the legal structure of the cooperative permits profits to be made and not returned to the members of the cooperative, except that a for-profit health plan purchasing cooperative may be formed by a nonprofit organization—

(A) in which membership in such organization is not based on health status; and

(B) that accepts as members all employers or individuals on a first-come, first-served basis, subject to any established limit on the maximum size of and employer that may become a member; or

(5) perform any other activities that conflict or are inconsistent with the performance of its duties under this title.

(g) LIMITED PREEMPTIONS OF CERTAIN STATE LAWS.—

(1) IN GENERAL.—With respect to a health plan purchasing cooperative that meets the requirements of this section, State fictitious group laws shall be preempted.

(2) HEALTH PLAN ISSUERS.—

(A) RATING.—With respect to a health plan issuer offering a group health plan or individual health plan through a health plan purchasing cooperative that meets the requirements of this section. State premium rating requirement laws, except to the extent provided under subparagraph (B), shall be preempted unless such laws permit premium rates negotiated by the cooperative to be less than rates that would otherwise be permitted under State law, if such rating differential is not based on differences in health status or demographic factors.

(B) EXCEPTION.—State laws referred to in subparagraph (A) shall not be preempted if such laws—

(i) prohibit the variance of premium rates among employers, plan sponsors, or individuals that are members of health plan purchasing cooperative in excess of the amount of such variations that would be permitted under such State rating laws among employers, plan sponsors, and individuals that are not members of the cooperative; and

(ii) prohibit a percentage increase in premium rates for a new rating period that is in excess of that which would be permitted under State rating laws.

(C) BENEFITS.—Except as provided in subparagraph (D), a health plan issuer offering a group health plan or individual health plan through a health plan purchasing cooperative shall comply with all State mandated benefit laws that require the offering of any services, category or care, or services of any class or type of provider.

(D) EXCEPTION.—In those states that have enacted laws authorizing the issuance of alternative benefit plans to small employers, health plan issuers may offer such alternative benefit plans through a health plan purchasing cooperative that meets the requirements of this section.

(h) RULES OF CONSTRUCTION.—Nothing in this section shall be construed to—

(1) require that a State organize, operate, or otherwise create health plan purchasing cooperatives;

(2) otherwise require the establishment of health plan purchasing cooperatives.

(3) require individuals, plan sponsors, or employers to purchase group health plans or individual health plans through a health plan purchasing cooperative;

(4) require that a health plan purchasing cooperative be the only type of purchasing arrangement permitted to operate in a State.

(5) confer authority upon a State that the State would not otherwise have to regulate health plan issuers or employee health benefits plans, or

(6) confer authority up a State (or the Federal Government) that the State (or Federal Government) would not otherwise have to regulate group purchasing arrangements, coalitions, or other similar entities that do not desire to become a health plan purchasing cooperative in accordance with this section.

(i) APPLICATION OF ERISA.—For purposes of enforcement only, the requirements of parts 4 and 5 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1101) shall apply to a health pan purchasing cooperative as if such plan were an employee welfare benefit plan.

Subtitle E—Application and Enforcement of Standards

SEC. 141. APPLICABILITY.

(A) CONSTRUCTION.—

(1) ENFORCEMENT.—

(A) IN GENERAL.—A requirement or standard imposed under this title on a group health plan or individual health plan offered by a health plan issuer shall be deemed to be a requirement or standard imposed on the health plan issuer. Such requirements or standards shall be enforced by the State insurance commissioner for the State involved or the official or officials designated by the State to enforce the requirements of this title. In the case of a group health plan offered by a health plan issuer in connection with an employee health benefit plan, the requirements of standards imposed under the title shall be enforced with respect to the health plan issuer by the State insurance commissioner for the State involved or the official of officials designated by the State to enforce the requirements of this title.

(B) LIMITATION.—Except as provided in subsection (c), the Secretary shall not enforce the requirements or standards of this title as they relate to health plan issuers, group health plans, or individual health plans. In no case shall a Sate enforce the requirements or standards of this title as they relate to employee health benefit plans.

(2) PREEMPTION OF STATE LAW.—Nothing in this title shall be construed to prevent a State from establishing, implementing, or continuing in effect standards and requirements—

(A) not prescribed in this title; or

(B) related to the issuance, renewal, or portability of health insurance or the establishment or operation of group purchasing arrangements, that are consistent with, and are not in direct conflict with, this title and provide greater protection or benefit to participants, beneficiaries or individuals.

(b) RULE OF CONSTRUCTION.—Nothing in this title shall be construed to affect or modify the provisions of section 514 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1144).

(c) CONTINUATION.—Nothing in this title shall be construed as requiring a group health plan or an employee health benefit plan to provide benefits to a particular participant or beneficiary in excess of those provided under the terms of such plan.

SEC. 202. ENFORCEMENT OF STANDARDS.

(a) HEALTH PLAN ISSUERS.—Each State shall require that each group health plan and individual health plan issued, sold, renewed, offered for sale or operated in such State by a health plan issuer meet the standards established under this title pursuant to an enforcement plan filed by the State with the Secretary. A State shall submit such information as required by the Secretary demonstrating effective implementation of the State enforcement law.

(b) EMPLOYEE HEALTH BENEFIT PLANS.—With respect to employee health benefit plans, the Secretary shall enforce the reform standards established under this title in the same manner as provided for under sections 502, 504, 506, and 510 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132, 1134, 1136, and 1140). The civil penalties contained in paragraphs (1) and (2) of section 502(c) of such Act (29 U.S.C. 1132(c) (1) and (2)) shall apply to any information required by the Secretary to be disclosed and reported under this section.

(c) FAILURE TO IMPLEMENT PLAN.—In the case of the failure of a State to substantially enforce the standards and requirements set forth in this title with respect to group health plans and individual health plans as provided for under the State enforcement plan filed under subsection (a), the Secretary, in consultation with the Secretary of Health and Human Services, shall implement an enforcement plan meeting the standards of this title in such State. In the case of a State that fails to substantially enforce the standards and requirements set forth in this title, each health plan issuer operating in such State shall be subject to civil enforcement as provided for under sections 502, 504, 506, and 510 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132, 1134, 1136, and 1140). The civil penalties contained in paragraphs (1) and (2) of section 502(c) of such Act (29 U.S.C. 1132(c) (1) and (2)) shall apply to any information required by the Secretary to be disclosed and reported under this section.

(d) APPLICABLE CERTIFYING AUTHORITY.—As used in this title, the term "applicable certifying authority"means, with respect to—

(1) health plan issuers, the State insurance commissioner or official or officials designated by the State to enforce the requirements of this title for the State involved; and

(2) an employee health benefit, plan, the Secretary.

(e) REGULATIONS.—The Secretary may promulgate such regulations as may be necessary or appropriate to carry out this title.

(f) TECHNICAL AMENDMENT.—Section 508 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1138) is amended by inserting "and under the Health Insurance Reform Act of 1996" before the period.

Subtitle F—Miscellaneous Provisions

SEC. 191. HEALTH COVERAGE AVAILABILITY STUDY.

(a) IN GENERAL.—The Secretary of Health and Human Services, in consultation with the Secretary, representatives of State officials, consumers, and other representatives of individuals and entities that have expertise in health insurance and employee benefits, shall conclude a two-part study, and prepare and submit reports, in accordance with this section.

(b) EVALUATION OF AVAILABILITY.—Not later than January 1, 1998, the Secretary of Health and Human Services shall prepare and submit to the appropriate committees of Congress a report, concerning—

(1) an evaluation, based on the experience of States, expert opinions, and such additional data as may be available, of the various mechanisms used to ensure the availability of reasonably priced health coverage to employers purchasing group coverage and to individuals purchasing coverage on a nongroup basis; and

(2) whether standards that limit the variation in premiums will further the purposes of this Act.

(c) EVALUATION OF EFFECTIVENESS.—Not later than January 1, 1999, the Secretary of Health and Human Services shall prepare and submit to the appropriate committees of Congress a report, concerning the effectiveness of the provisions of this Act and the various State laws, in ensuring the availability of reasonably priced health coverage to employers purchasing group coverage and individuals purchasing coverage on a nongroup basis.

SEC. 192. EFFECTIVE DATE.

Except as otherwise provided for in this title, the provisions of this title shall apply as follows:

(1) With respect to group health plans and individual health plans, such provisions shall apply to plans offered, sold, issued, renewed, in effect, or operated on or after January 1, 1997, and

(2) With respect to employee health benefit plans, on the first day of the first plan year beginning on or after January 1, 1997.

SEC. 193. SEVERABILITY.

If any provision of this title or the application of such provision to any person or circumstance is held to be unconstitutional, the remainder of this title and the application of the provisions of such to any person or circumstance shall not be affected thereby.

TITLE II—INCREASE IN DEDUCTION FOR HEALTH INSURANCE COSTS OF SELF-EMPLOYED INDIVIDUALS

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SEC. 200. AMENDMENT OF 1986 CODE.

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

Subtitle A—Increase in Deduction For Health Insurance Costs of Self-Employed Individuals

SEC. 201. INCREASE IN DEDUCTION FOR HEALTH INSURANCE COSTS OF SELF-EMPLOYED INDIVIDUALS.

(a) IN GENERAL.—Paragraph (1) of section 162(l) is amended to read as follows:

"(1) ALLOWANCE OF DEDUCTION.—

"(A) IN GENERAL.—In the case of an individual who is an employee within the meaning of section 401(c)(1), there shall be allowed as a deduction under this section an amount equal to the applicable percentage of the amount paid during the taxable year for insurance which constitutes medical care for the taxpayer, his spouse, and dependents.

"(B) APPLICABLE PERCENTAGE.—For purposes of subparagraph (A), the applicable percentage shall be determined under the following table:

"For taxable years beginning in calendar year—	The applicable percentage is—
After 1996 and before 2002	50 percent.
2002 or thereafter	80 percent."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1996.

Subtitle B—Revenue Offsets

CHAPTER 1—TREATMENT OF INDIVIDUALS WHO EXPATRIATE

SEC. 211. REVISION OF TAX RULES ON EXPATRIATION.

(a) IN GENERAL.—Subpart A of part II of subchapter N of chapter 1 is amended by inserting after section 877 the following new section:

"SEC. 877A. TAX RESPONSIBILITIES OF EXPATRIATION.

"(a) GENERAL RULES.—For purposes of this subtitle—

"(1) MARK TO MARKET.—Except as provided in subsection (f), all property of a covered expatriate to which this section applies shall be treated as sold on the expatriation date for its fair market value.

"(2) RECOGNITION OF GAIN OR LOSS.—In the case of any sale under paragraph (1)—

"(A) notwithstanding any other provision of this title, any gain arising from such sale shall be taken into account for the taxable year of the sale unless such gain is excluded from gross income under part III of subchapter B, and

"(B) any loss arising from such sale shall be taken into account for the taxable year of the sale to the extent otherwise provided by this title, except that section 1091 shall not apply (and section 1092 shall apply) to any such loss.

"(3) EXCLUSION FOR CERTAIN GAIN.—The amount which would (but for this paragraph) be includible in the gross income of any individual by reason of this section shall be reduced (but not below zero) by $600,000. For purposes of this paragraph, allocable expatriation gain taken into account under subsection (f)(2) shall be treated in the same manner as an amount required to be includible in gross income.

"(4) ELECTION TO CONTINUE TO BE TAXED AS UNITED STATES CITIZEN.—

"(A) IN GENERAL.—If an expatriate elects the application of this paragraph—

"(i) this section (other than this paragraph) shall not apply to the expatriate, but

"(ii) the expatriate shall be subject to tax under this title, with respect to property to which this section would apply but for such election, in the same manner as if the individual were a United States citizen.

"(B) LIMITATION ON AMOUNT OF ESTATE, GIFT, AND GENERATION-SKIPPING TRANSFER TAXES.—The aggregate amount of taxes imposed under subtitle B with respect to any transfer of property by reason of an election under subparagraph (A) shall not exceed the amount of income tax which would be due if the property were sold for its fair market value immediately before the time of the transfer or death (taking into account the rules of paragraph (2)).

"(c) REQUIREMENTS.—Subparagraph (A) shall not apply to an individual unless the individual—

"(i) provides security for payment of tax in such form and manner, and in such amount, as the Secretary may require,

"(ii) consents to the waiver of any right of the individual under any treaty of the United States which would preclude assessment or collection of any tax which may be imposed by reason of this paragraph, and

"(iii) complies with such other requirements as the Secretary may prescribe.

"(D) ELECTION.—An election under subparagraph (A) shall apply to all property to which this section would apply but for the election and, once made, shall be irrevocable. Such election shall also apply to property the basis of which is determined in whole or in part by reference to the property with respect to which the election was made.

"(b) ELECTION TO DEFER TAX.—

"(1) IN GENERAL.—If the taxpayer elects the application of this subsection with respect to any property—

"(A) no amount shall be required to be included in gross income under subsection (a)(1) with respect to the gain for such property for the taxable year of the sale, but

"(B) the taxpayer's tax for the taxable year in which such property is disposed of shall be increased by the deferred tax amount with respect to the property.

Except to the extent provided in regulations, subparagraph (B) shall apply to a disposition whether or not gain or loss is recognized in whole or in part on the disposition.

"(2) DEFERRED TAX AMOUNT.—

"(A) IN GENERAL.—For purposes of paragraph (1), the term 'deferred tax amount' means, with respect to any property, an amount equal to the sum of—

"(i) the difference between the amount of tax paid for the taxable year described in paragraph (1)(A) and the amount which would have been paid for such taxable year if the election under paragraph (1) had not applied to such property, plus

"(ii) an amount of interest on the amount described in clause (i) determined for the period—

"(I) beginning on the 91st day after the expatriation date, and

"(II) ending on the due date for the taxable year described in paragraph (1)(B),

by using the rates and method applicable under section 6621 for underpayments of tax for such period.

For purposes of clause (ii), the due date is the date prescribed by law (determined without regard to extension) for filing the return of the tax imposed by this chapter for the taxable year.

"(B) ALLOCATION OF LOSSES.—For purposes of subparagraph (A), any losses described in subsection (a)(2)(B) shall be allocated ratably among the gains described in subsection (a)(2)(A).

"(3) SECURITY.—

"(A) IN GENERAL.—No election may be made under paragraph (1) with respect to any property unless adequate security is provided with respect to such property.

"(B) ADEQUATE SECURITY.—For purposes of subparagraph (A), security with respect to any property shall be treated as adequate security if—

"(i) it is a bond in an amount equal to the deferred tax amount under paragraph (2)(A) for the property, or

"(ii) the taxpayer otherwise establishes to the satisfaction of the Secretary that the security is adequate.

"(4) WAIVER OF CERTAIN RIGHTS.—No election may be made under paragraph (1) unless the taxpayer consents to the waiver of any right under any treaty of the United States which would preclude assessment or collection of any tax imposed by reason of this section.

"(5) DISPOSITIONS.—For purposes of this subsection, a taxpayer making an election under this subsection with respect to any property shall be treated as having disposed of such property—

"(A) immediately before death if such property is held at such time, and

"(B) at any time the security provided with respect to the property fails to meet the requirements of paragraph (3) and the taxpayer does not correct such failure within the time specified by the Secretary.

"(6) ELECTIONS.—An election under paragraph (1) shall only apply to property described in the election and, once made, is irrevocable. An election may be under paragraph (1) with respect to an interest in a trust with respect to which gain is required to be recognized under subsection (f)(1).

"(c) COVERED EXPATRIATE.—For purposes of this section—

"(1) IN GENERAL.—The term 'covered expatriate' means an expatriate—

"(A) whose average annual net income tax (as defined in section 38(c)(1)) for the period of 5 taxable years ending before the expatriation date is greater than $100,000, or

"(B) whose net worth as of such date is $500,000 or more.

If the expatriation date is after 1996, such $100,000 and $500,000 amounts shall be increased by an amount equal to such dollar amount multiplied by the cost-of-living adjustment determined under section 1(f)(3) for such calendar year by substituting '1995' for '1992' in subparagraph (B) thereof. Any increase under the preceding sentence shall be rounded to the nearest multiple of $1,000.

"(2) EXCEPTIONS.—An individual shall not be treated as a covered expatriate if—

"(A) the individual—

"(i) became at birth a citizen of the United States and a citizen of another country and, as of the expatriation date, continues to be a citizen of, and is taxed as a resident of, such other country, and

"(ii) has been a resident of the United Stats (as defined in section 7701(b)(1)(A)(ii)) for not more than 8 taxable years during the 15-taxable year period ending with the taxable year during which the expatriation date occurs, or

"(B)(i) the individual's relinquishment of United States citizenship occurs before such individual attains age 18½, and

"(ii) the individual has been a resident of the United States (as so defined) for not more than 5 taxable years before the date of relinquishment.

"(d) PROPERTY TO WHICH SECTION APPLIES.—For purposes of this section—

"(1) IN GENERAL.—Except as otherwise provided by the Secretary, this section shall apply to—

"(A) any interest in property held by a covered expatriate on the expatriation date the gain from which would be included in the gross income of the expatriate if such interest had been sold for its fair market value on such data in a transaction in which gain is recognized in whole or in part, and

"(B) any other interest in a trust to which subsection (f) applies.

"(2) EXCEPTIONS.—This section shall not apply to the following property:

"(A) UNITED STATES REAL PROPERTY INTERESTS.—Any United States real property interest (as defined in section 897(c)(1)), other than stock of a United States real property holding corporation which does not, on the expatriation date, meet the requirements of section 897(c)(2).

"(B) INTEREST IN CERTAIN RETIREMENT PLANS.—

"(i) IN GENERAL.—Any interest in a qualified retirement plan (as defined in section 4974(c)), other than any interest attributable to contributions which are in excess of any limitation or which violate any condition for tax-favored treatment.

"(ii) FOREIGN PENSION PLANS.—

"(I) IN GENERAL.—Under regulations prescribed by the Secretary, interests in foreign pension plans or similar retirement arrangements or programs.

"(II) LIMITATION.—The value of property which is treated as not sold by reason of this subparagraph shall not exceed $500,000.

"(e) DEFINITIONS.—For purposes of this section—

"(1) EXPATRIATE.—The term 'expatriate' means—

"(A) any United States citizen who relinquishes his citizenship, or

"(B) any long-term resident of the United States who—

"(i) ceases to be a lawful permanent resident of the United States (within the meaning of section 7701(b)(6)), or

"(ii) commences to be treated as a resident of a foreign country under the provisions of a tax treaty between the United States and the foreign country and who does not waive the benefits of such treaty applicable to residents of the foreign country.

"(2) EXPATRIATION DATE.—The term 'expatriation date' means—

"(A) the date an individual relinquishes United States citizenship, or

"(B) in the case of a long-term resident of the United States, the date of the event described in clause (i) or (ii) of paragraph (1)(B).

"(3) RELINQUISHMENT OF CITIZENSHIP.—A citizen shall be treated as relinquishing his United States citizenship on the earliest of—

"(A) the date the individual renounces his United States nationality before a diplomatic or consular officer of the United States pursuant to paragraph (5) of section 349(a) of the Immigration and Nationality Act (8 U.S.C. 1481(a)(5)).

"(B) the date the individual furnishes to the United States Department of State a signed statement of voluntary relinquishment of United States nationality confirming the performance of an act of expatriation specified in paragraph (1), (2), (3), or (4) of section 349(a) of the Immigration and Nationality Act (8 U.S.C. 1481(a)(1)–(4)).

"(C) the date the United States Department of State issues to the individual a certificate of loss of nationality, or

"(D) the date a court of the United States cancels a naturalized citizen's certificate of naturalization.

Subparagraph (A) or (B) shall not apply to any individual unless the renunciation or voluntary relinquishment is subsequently approved by the issuance to the individual of a certificate of loss of nationality by the United States Department of State.

"(4) LONG-TERM RESIDENT.—

"(A) IN GENERAL.—The term 'long-term resident' means any individual (other than a citizen of the United States) who is a lawful permanent resident of the United States in at least 8 taxable years during the period of 15 taxable years ending with the taxable year during which the expatriation date occurs. For purposes of the preceding sentence, an individual shall not be treated as a lawful permanent resident for any taxable year if such individual is treated as a resident of a foreign country for the taxable year under the provisions of a tax treaty between the United States and the foreign country and does not waive the benefits of such treaty applicable to residents of the foreign country.

"(B) SPECIAL RULE.—For purposes of subparagraph (A), there shall not be taken into account—

"(i) any taxable year during which any prior sale is treated under subsection (a)(1) as occurring, or

"(ii) any taxable year prior to the taxable year referred to in clause (i).

"(f) SPECIAL RULES APPLICABLE TO BENEFICIARIES' INTERESTS IN TRUST.—

"(1) IN GENERAL.—Except as provided in paragraph (2), if an individual is determined under paragraph (3) to hold an interest in a trust—

"(A) the individual shall not be treated as having sold such interest,

"(B) such interest shall be treated as a separate share in the trust, and

"(C)(i) such separate share shall be treated as a separate trust consisting of the assets allocable to such share,

"(ii) the separate trust shall be treated as having sold its assets immediately before the expatriation date for their fair market value and as having distributed all of its assets to the individual as of such time, and

"(iii) the individual shall be treated as having recontributed the assets to the separate trust.

Subsection (a)(2) shall apply to any income, gain, or loss of the individual arising from a distribution described in subparagraph (C)(ii).

"(2) SPECIAL RULES FOR INTERESTS IN QUALIFIED TRUSTS.—

"(A) IN GENERAL.—If the trust interest described in paragraph (1) is an interest in a qualified trust—

"(i) paragraph (1) and subsection (a) shall not apply, and

"(ii) in addition to any other tax imposed by this title, there is hereby imposed on each distribution with respect to such interest a tax in the amount determined under subparagraph (B).

"(B) AMOUNT OF TAX.—The amount of tax under subparagraph (A)(ii) shall be equal to the lesser of—

"(i) the highest rate of tax imposed by section 1(e) for the taxable year in which the expatriation date occurs, multiplied by the amount of the distribution, or

"(ii) the balance in the deferred tax account immediately before the distribution determined without regard to any increases under subparagraph (C)(ii) after the 30th day preceding the distribution.

"(C) DEFERRED TAX ACCOUNT.—For purposes of subparagraph (B)(ii)—

"(i) OPENING BALANCE.—The opening balance in a deferred tax account with respect to any trust interest in an amount equal to the tax which would have been imposed on the allocable expatriation gain with respect to the trust interest if such gain had been included in gross income under subsection (a).

"(ii) INCREASE FOR INTEREST.—The balance in the deferred tax account shall be increased by the amount of interest determined (on the balance in the account at the time the interest accrues), for periods after the 90th day after the expatriation date, by using the rates and method applicable under section 6621 for underpayments of tax for such periods.

"(iii) DECREASE FOR TAXES PREVIOUSLY PAID.—The balance in the tax deferred account shall be reduced—

"(I) by the amount of taxes imposed by subparagraph (A) on any distribution to the person holding the trust interest, and

"(II) in the case of a person holding a nonvested interest, to the extent provided in regulations, by the amount of taxes imposed by subparagraph (A) on distributions from the trust with respect to nonvested interests not held by such person.

"(D) ALLOCABLE EXPATRIATION GAIN.—For purposes of this paragraph, the allocable expatriation gain with respect to any beneficiary's interest in a trust in the amount of gain which would be allocable to such beneficiary's vested and nonvested interests in the trust if the beneficiary held directly all assets allocable to such interests.

"(E) TAX DEDUCTED AND WITHHELD.—

"(i) IN GENERAL.—The tax imposed by subparagraph (A)(ii) shall be deducted and withheld by the trustees from the distribution to which it relates.

"(ii) EXCEPTION WHERE FAILURE TO WAIVE TREATY RIGHTS.—If an amount may not be deducted and withheld under clause (i) by reason of the distributee failing to waive any treaty right with respect to such distribution—

"(I) the tax imposed by subparagraph (A)(ii) shall be imposed on the trust and each trustee shall be personally liable for the amount of such tax, and

"(II) any other beneficiary of the trust shall be entitled to recover from the distributee the amount of such tax imposed on the other beneficiary.

"(F) DISPOSITION.—If a trust ceases to be a qualified trust at any time, a covered expatriate disposes of an interest in a qualified trust, or a covered expatriate holding an interest in a qualified trust dies, then, in lieu of the tax imposed by subparagraph (A)(ii), there is hereby imposed a tax equal to the lesser of—

"(i) the tax determined under paragraph (1) as if the expatriation date were the date of such cessation, disposition, or death, whichever is applicable, or

"(ii) the balance in the tax deferred account immediately before such date.

Such tax shall be imposed on the trust and each trustee shall be personally liable for the amount of such tax and any other beneficiary of the trust shall be entitled to recover from the covered expatriate or the estate the amount of such tax imposed on the other beneficiary.

"(G) DEFINITIONS AND SPECIAL RULE.—For purposes of this paragraph—

"(i) QUALIFIED TRUST.—The term 'qualified trust' means a trust—

"(I) which is organized under, and governed by, the laws of the United States or a State, and

"(II) with respect to which the trust instrument requires that at least 1 trustee of the trust be an individual citizen of the United States or a domestic corporation.

"(ii) VESTED INTEREST.—The term 'vested interest' means any interest which, as of the expatriation date, is vested in the beneficiary.

"(iii) NONVESTED INTEREST.—The term 'nonvested interest' means, with respect to any beneficiary, any interest in a trust which is not a vested interest. Such interest shall be determined by assuming the maximum exercise of discretion in favor of the beneficiary and the occurrence of all contingencies in favor of the beneficiary.

"(iv) ADJUSTMENTS.—The Secretary may provide for such adjustments to the bases of assets in a trust or a deferred tax account, and the timing of such adjustments, in order to ensure that gain is taxed only once.

"(3) DETERMINATION OF BENEFICIARIES' INTEREST IN TRUST.—

"(A) DETERMINATIONS UNDER PARAGRAPH (1)—For purposes of paragraph (1), a beneficiary's interest in a trust shall be based upon all relevant facts and circumstances, including the terms of the trust instrument and any letter of wishes or similar document, historical patterns of trust distributions, and the existence of and functions performed by a trust protector or any similar advisor.

"(B) OTHER DETERMINATIONS.—For purposes of this section—

"(i) CONSTRUCTIVE OWNERSHIP.—If a beneficiary of a trust is a corporation, partnership, trust, or estate, the shareholders, partners, or beneficiaries shall be deemed to be the trust beneficiaries for purposes of this section.

"(ii) TAXPAYER RETURN POSITION.—A taxpayer shall clearly indicate on its income tax return—

"(I) the methodology used to determine that taxpayer's trust interest under this section, and

"(II) if the taxpayer knows (or has reason to know) that any other beneficiary of such trust is using a different methodology to determine such beneficiary's trust interest under this section.

"(g) TERMINATION OF DEFERRALS, ETC.—On the date any property held by an individual is treated as sold under subsection (a), notwithstanding any other provision of this title—

"(1) any period during which recognition of income or gain is deferred shall terminate, and

"(2) any extension of time for payment of tax shall cease to apply and the unpaid portion of such tax shall be due and payable at the time and in the manner prescribed by the Secretary.

"(h) IMPOSITION OF TENTATIVE TAX.—

"(1) IN GENERAL.—If an individual is required to include any amount in gross income under subsection (a) for any taxable year, there is hereby imposed, immediately before the expatriation date, a tax in an amount equal to the amount of tax which would be imposed if the taxable year were a short taxable year ending on the expatriation date.

"(2) DUE DATE.—The due date for any tax imposed by paragraph (1) shall be the 90th day after the expatriation date.

"(3) TREATMENT OF TAX.—Any tax paid under paragraph (1) shall be treated as a payment of the tax imposed by this chapter for the taxable year to which subsection (a) applies.

"(4) DEFERRAL OF TAX.—The provisions of subsection (b) shall apply to the tax imposed by this subsection to the extent attributable to gain includible in gross income by reason of this section.

"(i) COORDINATION WITH ESTATE AND GIFT TAXES.—If subsection (a) applies to property held by an individual for any taxable year and—

"(1) such property is includible in the gross estate of such individual solely by reason of section 2107, or

"(2) section 2501 applies to a transfer of such property by such individual solely by reason of section 2501(a)(3).

then there shall be allowed as a credit against the additional tax imposed by section 2101 or 2501, whichever is applicable, solely by reason of section 2107 or 2501(a)(3) an amount equal to the increase in the tax imposed by this chapter for such taxable year by reason of this section.

"(j) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section, including regulations—

"(1) to prevent double taxation by ensuring that—

"(A) appropriate adjustments are made to basis to reflect gain recognized by reason of subsection (a) and the exclusion provided by subsection (a)(3), and

"(B) any gain by reason of a deemed sale under subsection (a) of an interest in a corporation, partnership, trust, or estate is reduced to reflect that portion of such gain which is attributable to an interest in a trust which a shareholder, partner, or beneficiary is treated as holding directly under subsection (f)(3)(B)(i), and

"(2) which provide for the proper allocation of the exclusion under subsection (a)(3) to property to which this section applies.

"(k) CROSS REFERENCE.—

"For income tax treatment of individuals who terminate United States citizenship, see section 7701(a)(47).".

(b) INCLUSION IN INCOME OF GIFTS AND INHERITANCES FROM COVERED EXPATRIATES.—Section 102 (relating to gifts, etc. not included in gross income) is amended by adding at the end the following new subsection:

"(d) GIFTS AND INHERITANCES FROM COVERED EXPATRIATES.—Subsection (a) shall not

exclude from gross income the value of any property acquired by gift, bequest, devise, or inheritance from a covered expatriate after the expatriation date. For purposes of this subsection, any term used in this subsection which is also used in section 877A shall have the same meaning as when used in section 877A.".

(c) DEFINITION OF TERMINATION OF UNITED STATES CITIZENSHIP.—Section 7701(a) is amended by adding at the end the following new paragraph:

"(47) TERMINATION OF UNITED STATES CITIZENSHIP.—An individual shall not cease to be treated as a United States citizen before the date on which the individual's citizenship is treated as relinquished under section 877A(e)(3).".

(d) CONFORMING AMENDMENTS.—

(1) Section 877 is amended by adding at the end the following new subsection:

"(f) APPLICATION.—This section shall not apply to any individual who relinquishes (within the meaning of section 877A(e)(3)) United States citizenship on or after February 6, 1995.".

(2) Section 2107(c) is amended by adding at the end the following new paragraph:

"(3) CROSS REFERENCE.—For credit against the tax imposed by subsection (a) for expatriation tax, see section 877A(i).".

(3) Section 2501(a)(3) is amended by adding at the end the following new flush sentence: "For credit against the tax imposed under this section by reason of this paragraph, see section 877A(i).".

(4) Paragraph (10) of section 7701(b) is amended by adding at the end the following new sentence: "This paragraph shall not apply to any long-term resident of the United States who is an expatriate (as defined in section 877A(e)(1)).".

(e) CLERICAL AMENDMENT.—The table of sections for subpart A of part II of subchapter N of chapter 1 is amended by inserting after the item relating to section 877 the following new item:

"Sec. 877A. Tax responsibilities of expatriation.".

(f) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in this subsection, the amendments made by this section shall apply to expatriates (within the meaning of section 877A(e) of the Internal Revenue Code of 1986, as added by this section) whose expatriation date (as so defined) occurs on or after February 6, 1995.

(2) GIFTS AND BEQUESTS.—Section 102(d) of the Internal Revenue Code of 1986 (as added by subsection (b)) shall apply to amounts received from expatriates (as so defined) whose expatriation date (as so defined) occurs on and after February 6, 1995.

(3) SPECIAL RULES RELATING TO CERTAIN ACTS OCCURRING BEFORE FEBRUARY 6, 1995.—In the case of an individual who took an act of expatriation specified in paragraph (1), (2), (3), or (4) of section 349(a) of the Immigration and Nationality Act (8 U.S.C. 1481(a) (1)–(4)) before February 6, 1995, but whose expatriation date (as so defined) occurs after February 6, 1995—

(A) the amendment made by subsection (c) shall not apply,

(B) the amendment made by subsection (d)(1) shall not apply for any period prior to the expatriation date, and

(C) the other amendments made by this section shall apply as of the expatriation date.

(4) DUE DATE FOR TENTATIVE TAX.—The due date under section 877A(h)(2) of such Code shall in no event occur before the 90th day after the date of the enactment of this Act.

SEC. 212. INFORMATION ON INDIVIDUALS EXPATRIATING.

(a) IN GENERAL.—Subpart A of part III of subchapter A of chapter 61 is amended by inserting after section 6039E the following new section:

"SEC. 6039F. INFORMATION ON INDIVIDUALS EXPATRIATING.

"(a) REQUIREMENT.—

"(1) IN GENERAL.—Notwithstanding any other provision of law, any expatriate (within the meaning of section 877A(e)(1)) shall provide a statement which includes the information described in subsection (b).

"(2) TIMING.—

"(A) CITIZENS.—In the case of an expatriate described in section 877(e)(1)(A), such statement shall be—

"(i) provided not later than the expatriation date (within the meaning of section 877A(e)(2)), and

"(ii) provided to the person or court referred to in section 877A(e)(3).

"(B) NONCITIZENS.—In the case of an expatriate described in section 877A(e)(1)(B), such statement shall be provided to the Secretary with the return of tax imposed by chapter 1 for the taxable year during which the event described in such section occurs.

"(b) INFORMATION TO BE PROVIDED.—Information required under subsection (a) shall include—

"(1) the taxpayer's TIN,

"(2) the mailing address of such individual's principal foreign residence,

"(3) the foreign country in which such individual is residing,

"(4) the foreign country of which such individual is a citizen,

"(5) in the case of an individual having a net worth of at lease the dollar amount applicable under section 877A(c)(1)(B), information detailing the assets and liabilities of such individual, and

"(6) such other information as the Secretary may prescribe.

"(c) PENALTY.—Any individual failing to provide a statement required under subsection (a) shall be subject to a penalty for each year during any portion of which such failure continues in an amount equal to the greater of—

"(1) 5 percent of the additional tax required to be paid under section 877A for such year, or

"(2) $1,000, unless it is shown that such failure is due to reasonable cause and not to willful neglect.

"(d) INFORMATION TO BE PROVIDED TO SECRETARY.—Notwithstanding any other provision of law—

"(1) any Federal agency or court which collects (or is required to collect) the statement under subsection (a) shall provide to the Secretary—

"(A) a copy of any such statement, and

"(B) the name (and any other identifying information) of any individual refusing to comply with the provisions of subsection (a),

"(2) the Secretary of State shall provide to the Secretary a copy of each certificate as to the loss of American nationality under section 358 of the Immigration and Nationality Act which is approved by the Secretary of State, and

"(3) the Federal agency primarily responsible for administering the immigration laws shall provide to the Secretary the name of each lawful permanent resident of the United States (within the meaning of section 7701(b)(6)) whose status as such has been revoked or has been administratively or judicially determined to have been abandoned.

Notwithstanding any other provision of law, not later than 30 days after the close of each calendar quarter, the Secretary shall publish in the Federal Register the name of each individual relinquishing United States citizenship (within the meaning of section 877A(e)(3)) with respect to whom the Secretary receives information under the preceding sentence during such quarter.

"(e) EXEMPTION.—The Secretary may by regulations exempt any class of individuals from the requirements of this section if the Secretary determines that applying this section to such individuals is not necessary to carry out the purposes of this section.".

(b) CLERICAL AMENDMENT.—The table of sections for such subpart A is amended by inserting after the item relating to section 6039E the following new item:

"Sec. 6039F. Information on individuals expatriating.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to individuals to whom section 877A of the Internal Revenue Code of 1986 applies and whose expatriation date (as defined in section 877A(e)(2)) occurs on or after February 6, 1995, except that no statement shall be required by such amendments before the 90th day after the date of the enactment of this Act.

CHAPTER 2—FOREIGN TRUST TAX COMPLIANCE

SEC. 221. IMPROVED INFORMATION REPORTING ON FOREIGN TRUSTS.

(a) IN GENERAL.—Section 6048 (relating to returns as to certain foreign trusts) is amended to read as follows:

"SEC. 6048. INFORMATION WITH RESPECT TO CERTAIN FOREIGN TRUSTS.

"(a) NOTICE OF CERTAIN EVENTS.—

"(1) GENERAL RULE.—On or before the 90th day (or such later day as the Secretary may prescribe) after any reportable event, the responsible party shall provide written notice of such event to the Secretary in accordance with paragraph (2).

"(2) CONTENTS OF NOTICE.—The notice required by paragraph (1) shall contain such information as the Secretary may prescribe, including—

"(A) the amount of money or other property (if any) transferred to the trust in connection with the reportable event, and

"(B) the identify of the trust and of each trustee and beneficiary or class of beneficiaries) of the trust.

"(3) REPORTABLE EVENT.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'reportable event' means—

"(i) the creation of any foreign trust by a United States person,

"(ii) the transfer of any money or property (directly or indirectly) to a foreign trust by a United States person, including a transfer by reason of death, and

"(iii) the death of a citizen or resident of the United States if—

"(I) the decedent was treated as the owner of any portion of a foreign trust under the rules of subpart E of part I of subchapter J of chapter 1, or

"(II) any portion of a foreign trust was included in the gross estate of the decedent.

"(B) EXCEPTIONS.—

"(i) FAIR MARKET VALUE SALES.—Subparagraph (A)(ii) shall not apply to any transfer of property to a trust in exchange for consideration of at least the fair market value of the transferred property. For purposes of the preceding sentence, consideration other than cash shall be taken into account at its fair market value and the rules of section 679(a)(3) shall apply.

"(ii) DEFERRED COMPENSATION AND CHARITABLE TRUSTS.—Subparagraph (A) shall not apply with respect to a trust which is—

"(I) described in section 402(b), 404(a)(4), or 404A, or

"(II) determined by the Secretary to be described in section 501(c)(3).

"(4) RESPONSIBLE PARTY.—For purposes of this subsection, the term 'responsible party' means—

"(A) the grantor in the case of the creation of an inter vivos trust.

"(B) the transferor in the case of a reportable event described in paragraph (3)(A)(ii) other than a transfer by reason of death, and

"(C) the executor of the decedent's estate in any other case.

"(b) UNITED STATES GRANTOR OF FOREIGN TRUST.—

"(1) IN GENERAL.—If, at any time during any taxable year of a United States person, such person is treated as the owner of any portion of a foreign trust under the rules of subpart E of part I of subchapter J of chapter 1, such person shall be responsible to ensure that

"(A) such trust makes a return for such year which sets forth a full and complete accounting of all trust activities and operations for the year, the name of the United States agent for such trust, and such other information as the Secretary may prescribe, and

"(B) such trust furnishes such information as the Secretary may prescribe to each United States person (i) who is treated as the owner of any portion of such trust or (ii) who receives (directly or indirectly) any distribution from the trust.

"(2) TRUSTS NOT HAVING UNITED STATES AGENT.—

"(A) IN GENERAL.—If the rules of this paragraph apply to any foreign trust, the determination of amounts required to be taken into account with respect to such trust by a United States person under the rules of subpart E of part I of subchapter J of chapter 1 shall be determined by the Secretary.

"(B) UNITED STATES AGENT REQUIRED.—The rules of this paragraph shall apply to any foreign trust to which paragraph (1) applies unless such trust agrees (in such manner, subject to such conditions, and at such time as the Secretary shall prescribe) to authorize a United States person to act as such trust's limited agent solely for purposes of applying sections 7602, 7603, and 7604 with respect to—

"(i) any request by the Secretary to examine records or produce testimony related to the proper treatment of amounts required to be taken into account under the rules referred to in subparagraph (A), or

"(ii) any summons by the Secretary for such records or testimony.

The appearance of persons or production of records by reason of a United States person being such an agent shall not subject such persons or records to legal process for any purpose other than determining the correct treatment under this title of the amounts required to be taken into account under the rules referred to in subparagraph (A). A foreign trust which appoints an agent described in this subparagraph shall not be considered to have an office or a permanent establishment in the United States, or to be engaged in a trade or business in the United States, solely because of the activities of such agent pursuant to this subsection.

"(C) OTHER RULES TO APPLY.—Rules similar to the rules of paragraphs (2) and (4) of section 6038A(e) shall apply for purposes of this paragraph.

"(c) REPORTING BY UNITED STATES BENEFICIARIES OF FOREIGN TRUSTS.—

"(1) IN GENERAL.—If any United States person receives (directly or indirectly) during any taxable year of such person any distribution from a foreign trust, such person shall make a return with respect to such trust for such year which includes—

"(A) the name of such trust,

"(B) the aggregate amount of the distributions so received from such trust during such taxable year, and

"(C) such other information as the Secretary may prescribe.

"(2) INCLUSION IN INCOME IF RECORDS NOT PROVIDED.—

"(A) IN GENERAL.—If applicable records are not provided to the Secretary to determine the proper treatment of any distribution from a foreign trust, such distribution shall be treated as an accumulation distribution includable in the gross income of the distributee under chapter 1. To the extent provided in regulations, the preceeding sentence shall not apply if the foreign trust elects to be subject to rules similar to the rules of subsection (b)(2)(B).

"(B) APPLICATION OF ACCUMULATION DISTRIBUTION RULES.—For purposes of applying section 668 in a case to which subparagraph (A) applies, the applicable number of years for purposes of section 668(a) shall be ½ of the number of years the trust has been in existence.

"(d) SPECIAL RULES.—

"(1) DETERMINATION OF WHETHER UNITED STATES PERSON RECEIVES DISTRIBUTION.—For purposes of this section, in determining whether a United States person receives a distribution from a foreign trust, the fact that a portion of such trust is treated as owned by another person under the rules of subpart E of part I of subchapter J of chapter 1 shall be disregarded.

"(2) DOMESTIC TRUSTS WITH FOREIGN ACTIVITIES.—To the extent provided in regulations, a trust which is a United States person shall be treated as a foreign trust for purposes of this section and section 6677 if such trust has substantial activities, or holds substantial property, outside the United States.

"(3) TIME AND MANNER OF FILING INFORMATION.—Any notice or return required under this section shall be made at such time and in such manner as the Secretary shall prescribe.

"(4) MODIFICATION OF RETURN REQUIREMENTS.—The Secretary is authorized to suspend or modify any requirement of this section if the Secretary determines that the United States has no significant tax interest in obtaining the required information.".

(b) INCREASED PENALTIES.—Section 6677 (relating to failure to file information returns with respect to certain foreign trusts) is amended to read as follows:

"SEC. 6677. FAILURE TO FILE INFORMATION WITH RESPECT TO CERTAIN FOREIGN TRUSTS.

"(a) CIVIL PENALTY.—In addition to any criminal penalty provided by law, if any notice or return required to be filed by section 6048—

"(1) is not filed on or before the time provided in such section, or

"(2) does not include all the information required pursuant to such section or includes incorrect information.

the person required to file such notice or return shall pay a penalty equal to 35 percent of the gross reportable amount. If any failure described in the preceding sentence continues for more than 90 days after the day on which the Secretary mails notice of such failure to the person required to pay such penalty, such person shall pay a penalty (in addition to the amount determined under the preceding sentence) of $10,000 for each 30-day period (or fraction thereof) during which such failure continues after the expiration of such 90-day period. In no event shall the penalty under this subsection with respect to any failure exceed the gross reportable amount.

"(b) SPECIAL RULES FOR RETURNS UNDER SECTION 6048(b).—In the case of a return required under section 6048(b)—

"(1) the United States person referred to in such section shall be liable for the penalty imposed by subsection (a), and

"(2) subsection (a) shall be applied by substituting '5 percent' for '35 percent'.

"(c) GROSS REPORTABLE AMOUNT.—For purposes of subsection (a), the term 'gross reportable amount' means—

"(1) the gross value of the property involved in the event (determined as of the date of the event) in the case of a failure relating to section 6048(a),

"(2) the gross value of the portion of the trust's assets at the close of the year treated as owned by the United States person in the case of a failure relating to section 6048(b)(1), and

"(3) the gross amount of the distributions in the case of a failure relating to section 6048(c).

"(d) REASONABLE CAUSE EXCEPTION.—No penalty shall be imposed by this section on any failure which is shown to be due to reasonable cause and not due to willful neglect. The fact that a foreign jurisdiction would impose a civil or criminal penalty on the taxpayer (or any other person) for disclosing the required information is not reasonable cause.

"(e) DEFICIENCY PROCEDURES NOT TO APPLY.—Subchapter B of chapter 63 (relating to deficiency procedures for income, estate, gift, and certain excise taxes) shall not apply in respect of the assessment or collection of any penalty imposed by subsection (a).".

(c) CONFORMING AMENDMENTS.—

(1) Paragraph (2) of section 6724(d), as amended by sections 11004 and 11045, is amended by striking "or" at the end of subparagraph (U), by striking the period at the end of subparagraph (V) and inserting ",or", and by inserting after subparagraph (V) the following new subparagraph:

"(W) section 6048(b)(1)(B) (relating to foreign trust reporting requirements).".

(2) The table of sections for subpart B of part III of subchapter A of chapter 61 is amended by striking the item relating to section 6048 and inserting the following new item:

"Sec. 604 Information with respect to certain foreign trusts.".

(3) The table of sections for part I of subchapter B of chapter 68 is amended by striking the item relating to section 6677 and inserting the following new item:

"Sec. 6677. Failure to file information with respect to certain foreign trusts"

(d) EFFECTIVE DATES.—

(1) REPORTABLE EVENTS.—To the extent related to subsection (a) of section 6048 of the Internal Revenue Code of 1986, as amended by this section, the amendments made by this section shall apply to reportable events (as defined in such section 6048) occurring after the date of the enactment of this Act.

(2) GRANTOR TRUST REPORTING.—To the extent related to subsection (b) of such section 6048, the amendments made by this section shall apply to taxable years of United States persons beginning after the date of the enactment of this Act.

(3) REPORTING BY UNITED STATES BENEFICIARIES.—To the extent related to subsection (c) of such section 6048, the amendments made by this section shall apply to distributions received after the date of the enactment of this Act.

SEC. 222. MODIFICATIONS OF RULES RELATING TO FOREIGN TRUSTS HAVING ONE OR MORE UNITED STATES BENEFICIARIES.

(a) TREATMENT OF TRUST OBLIGATIONS, ETC.—

(1) Paragraph (2) of section 679(a) is amended by striking subparagraph (B) and inserting the following:

"(B) TRANSFERS AT FAIR MARKET VALUE.—To any transfer of property to a trust in exchange for consideration of at least the fair market value of the transferred property. For purposes of the preceding sentence, consideration other than cash shall be taken into account at its fair market value.".

(2) Subsection (a) of section 679 (relating to foreign trusts having one or more United States beneficiaries) is amended by adding at the end the following new paragraph:

"(3) CERTAIN OBLIGATIONS NOT TAKEN INTO ACCOUNT UNDER FAIR MARKET VALUE EXCEPTIONS.—

"(A) IN GENERAL.—In determining whether paragraph (2)(B) applies to any transfer by a person described in clause (ii) or (iii) of subparagraph (C), there shall not be taken into account—

"(i) except as provided in regulations, any obligation of a person described in subparagraph (C), and

"(ii) to the extent provided in regulations, any obligation which is guaranteed by a person described in subparagraph (C).

"(B) TREATMENT OF PRINCIPAL PAYMENTS ON OBLIGATION.—Principal payments by the trust on any obligation referred to in subparagraph (A) shall be taken into account on and after the date of the payment in determining the portion of the trust attributable to the property transferred.

"(C) PERSONS DESCRIBED.—The persons described in this subparagraph are—

"(i) the trust,

"(ii) any grantor or beneficiary of the trust, and

"(iii) any person who is related (within the meaning of section 643(i)(2)(B)) to any grantor or beneficiary of the trust.".

(b) EXEMPTION OF TRANSFERS TO CHARITABLE TRUSTS.—Subsection (a) of section 679 is amended by striking "section 404(a)(4) or 404A" and inserting "section 6048(a)(3)(B)(ii)".

(c) OTHER MODIFICATIONS.—Subsection (a) of section 679 is amended by adding at the end the following new paragraphs:

"(4) SPECIAL RULES APPLICABLE TO FOREIGN GRANTOR WHO LATER BECOMES A UNITED STATES PERSON.—

"(A) IN GENERAL.—If a nonresident alien individual has a residency starting date within 5 years after directly or indirectly transferring property to a foreign trust, this section and section 6048 shall be applied as if such individual transferred to such trust on the residency starting date an amount equal to the portion of such trust attributable to the property transferred by such individual to such trust in such transfer.

"(B) TREATMENT OF UNDISTRIBUTED INCOME.—For purposes of this section, undistributed net income for periods before such individual's residency starting date shall be taken into account in determining the portion of the trust which is attributable to property transferred by such individual to such trust but shall not otherwise be taken into account.

"(C) RESIDENCY STARTING DATE.—For purposes of this paragraph, an individual's residency starting date is the residency starting date determined under section 7701(b)(2)(A).

"(5) OUTBOUND TRUST MIGRATIONS.—If—

"(A) an individual who is a citizen or resident of the United States transferred property to a trust which was not a foreign trust, and

"(B) such trust becomes a foreign trust while such individual is alive,

then this section and section 6048 shall be applied as if such individual transferred to such trust on the date such trust becomes a foreign trust an amount equal to the portion of such trust attributable to the property previously transferred by such individual to such trust. A rule similar to the rule of paragraph (4)(B) shall apply for purposes of this paragraph.".

(d) MODIFICATION RELATING TO WHETHER TRUST HAS UNITED STATES BENEFICIARIES.—Subsection (c) of section 679 is amended by adding at the end the following new paragraph:

"(3) CERTAIN UNITED STATES BENEFICIARIES DISREGARDED.—A beneficiary shall not be treated as a United States person in applying this section with respect to any transfer of property to foreign trust if such beneficiary first became a United States person more than 5 years after the date of such transfer.".

(e) TECHNICAL AMENDMENT.—Subparagraph (A) of section 679(c)(2) is amended to read as follows:

"(A) in the case of a foreign corporation, such corporation is a controlled foreign corporation (as defined in section 957(a)),".

(f) REGULATIONS.—Section 679 is amended by adding at the end the following new subsection:

"(d) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section.".

(g) EFFECTIVE DATE.—The amendments made by this section shall apply to transfers of property after February 6, 1995.

SEC. 233. FOREIGN PERSONS NOT TO BE TREATED AS OWNERS UNDER GRANTOR TRUST RULES.

(a) GENERAL RULE.—

(1) Subsection (f) of section 672 (relating to special rule where grantor is foreign person) is amended to read as follows:

"(f) SUBPART NOT TO RESULT IN FOREIGN OWNERSHIP.—

"(1) IN GENERAL.—Notwithstanding any other provision of this subpart, this subpart shall apply only to the extent such application results in an amount being currently taken into account (directly or through 1 or more entities) under this chapter in computing the income of a citizen or resident of the United States or a domestic corporation.

"(2) EXCEPTIONS.—

"(A) CERTAIN REVOCABLE AND IRREVOCABLE TRUSTS.—Paragraph (1) shall not apply to any trust if—

"(i) the power to revest absolutely in the grantor title to the trust property is exercisable solely by the grantor without the approval or consent of any other person or with the consent of a related or subordinate party who is subservient to the grantor, or

"(ii) the only amounts distributable from such trust (whether income or corpus) during the lifetime of the grantor are amounts distributable to the grantor or the spouse of the grantor.

"(B) COMPENSATORY TRUSTS.—Except as provided in regulations, paragraph (1) shall not apply to any portion of a trust distributions from which are taxable as compensation for services rendered.

"(3) SPECIAL RULES.—Except as otherwise provided in regulations prescribed by the Secretary—

"(A) a controlled foreign corporation (as defined in section 957) shall be treated as a domestic corporation for purposes of paragraph (1), and

"(B) paragraph (1) shall not apply for purposes of applying section 1296.

"(4) RECHARACTERIZATION OF PURPORTED GIFTS.—In the case of any transfer directly or indirectly from a partnership or foreign corporation which the transferee treats as a gift or bequest, the Secretary may recharacterize such transfer in such circumstances as the Secretary determines to be appropriate to prevent the avoidance of the purposes of this subsection.

"(5) SPECIAL RULE WHERE GRANTOR IS FOREIGN PERSON.—If—

"(A) but for this subsection, a foreign person would be treated as the owner of any portion of a trust, and

"(B) such trust has a beneficiary who is a United States person,

such beneficiary shall be treated as the grantor of such portion to the extent such beneficiary has made transfers of property by gift (directly or indirectly) to such foreign person. For purposes of the preceding sentence, any gift shall not be taken into account to the extent such gift would be excluded from taxable gifts under section 2503(b).

"(6) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this subsection, including regulations providing that paragraph (1) shall not apply in appropriate cases.".

(2) The last sentence of subsection (c) of section 672 of such Code is amended by inserting "subsection (f) and" before "sections 674".

(b) CREDIT FOR CERTAIN TAXES.—Paragraph (2) of section 665(d) is amended by adding at the end the following new sentence: "Under rules or regulations prescribed by the Secretary, in the case of any foreign trust of which the settlor or another person would be treated as owner of any portion of the trust under subpart E but for section 672(f), the term 'taxes imposed on the trust' includes the allocable amount of any income, war profits, and excess profits taxes imposed by any foreign country or possession of the United States on the settlor or such other person in respect of trust gross income.".

(c) DISTRIBUTION BY CERTAIN FOREIGN TRUSTS THROUGH NOMINEES.—

(1) Section 643 is amended by adding at the end the following new subsection:

"(h) DISTRIBUTION BY CERTAIN FOREIGN TRUSTS THROUGH NOMINEES.—For purposes of this part, any amount paid to a United States person which is derived directly or indirectly from a foreign trust of which the payor is not the grantor shall be deemed in the year of payment to have been directly paid by the foreign trust to such United States person.".

(2) Section 665 is amended by striking subsection (c).

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided by paragraph (2), the amendments made by this section shall take effort on the date of the enactment of this Act.

(2) EXCEPTION FOR CERTAIN TRUSTS.—The amendments made by this section shall not apply to any trust—

(A) which is treated as owned by the grantor or another person under section 676 or 677 (other than subsection (a)(3) thereof) of the Internal Revenue Code of 1986, and

(B) which is in existence on September 19, 1995.

The preceding sentence shall not apply to the portion of any such trust attributable to any transfer to such trust after September 19, 1995.

(e) TRANSITIONAL RULE.—If—

(1) by reason of the amendments made by this section, any person other than a United States person ceases to be treated as the owner of a portion of a domestic trust, and

(2) before January 1, 1997, such trust becomes a foreign trust, or the assets of such trust are transferred to a foreign trust,

no tax shall be imposed by section 1491 of the Internal Revenue Code of 1986 by reason of such trust becoming a foreign trust or the assets of such trust being transferred to a foreign trust.

SEC. 224. INFORMATION REPORTING REGARDING FOREIGN GIFTS.

(a) IN GENERAL.—Subpart A of part III of subchapter A of chapter 61 is amended by inserting after section 6039F the following new section:

"SEC. 6039G. NOTICE OF GIFTS RECEIVED FROM FOREIGN PERSONS.

"(a) IN GENERAL.—If the value of the aggregate foreign gifts received by a United States person (other than an organization described in section 501(c) and exempt from tax under section 501(a)) during any taxable year exceeds $10,000, such United States person shall furnish (at such time and in such manner as the Secretary shall prescribe) such information as the Secretary may prescribe regarding each foreign gift received during such year.

"(b) FOREIGN GIFT.—For purposes of this section, the term 'foreign gift' means any amount received from a person other than a United States person which the recipient treats as a gift or bequest. Such term shall not include any qualified transfer (within the meaning of section 2503(e)(2)).

"(c) PENALTY FOR FAILURE TO FILE INFORMATION.—

"(1) IN GENERAL.—If a United States person fails to furnish the information required by subsection (a) with respect to any foreign gift within the time prescribed therefor (including extensions)—

"(A) the tax consequences of the receipt of such gift shall be determined by the Secretary in the Secretary's sole discretion from the Secretary's own knowledge or from such information as the Secretary may obtain through testimony or otherwise, and

"(B) such United States person shall pay (upon notice and demand by the Secretary and in the same manner as tax) an amount equal to 5 percent of the amount of such foreign gift for each month for which the failure continues (not to exceed 25 percent of such amount in the aggregate).

"(2) REASONABLE CAUSE EXCEPTION.—Paragraph (1) shall not apply to any failure to report a foreign gift if the United States person shows that the failure is due to reasonable cause and not due to willful neglect.

"(d) COST-OF-LIVING ADJUSTMENT.—In the case of any taxable year beginning after December 31, 1996, the $10,000 amount under subsection (a) shall be increased by an amount equal to the product of such amount and the cost-of-living adjustment for such taxable year under section 1(f)(3), except that subparagraph (B) thereof shall be applied by substituting '1995' for '1992'.

"(e) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section.".

"(b) CLERICAL AMENDMENT.—The table of sections for such subpart is amended by inserting after the item relating to section 6039F the following new item:

"Sec. 6039G. Notice of large gifts received from foreign persons.".

"(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts received after the date of the enactment of this Act in taxable years ending after such date.

SEC. 225. MODIFICATION OF RULES RELATING TO FOREIGN TRUSTS WHICH ARE NOT GRANTOR TRUSTS.

"(a) MODIFICATION OF INTEREST CHARGE ON ACCUMULATION DISTRIBUTIONS.—Subsection (a) of section 668 (relating to interest charge on accumulation distributions from foreign trusts) is amended to read as follows:

"(a) GENERAL RULE.—For purposes of the tax determined under section 667(a)—

"(1) INTEREST DETERMINED USING UNDERPAYMENT RATES.—The interest charge determined under this section with respect to any distribution is the amount of interest which would be determined on the partial tax computed under section 667(b) for the period described in paragraph (2) using the rates and the method under section 6621 applicable to underpayments of tax.

"(2) PERIOD.—For purposes of paragraph (1), the period described in this paragraph is the period which begins on the date which is the applicable number of years before the date of the distribution and which ends on the date of the distribution.

"(3) APPLICABLE NUMBER OF YEARS.—For purposes of paragraph (2)—

"(A) IN GENERAL.—The applicable number of years with respect to a distribution is the number determined by dividing—

"(i) the sum of the products described in subparagraph (B) with respect to each undistributed income year, by

"(ii) the aggregate undistributed net income.

The quotient determined under the preceding sentence shall be rounded under procedures prescribed by the Secretary.

"(B) PRODUCT DESCRIBED.—For purposes of subparagraph (A), the product described in this subparagraph with respect to any undistributed income year is the product of—

"(i) the undistributed net income for such year, and

"(ii) the sum of the number of taxable years between such year and the taxable year of the distribution (counting in each case the undistributed income year but not counting the taxable year of the distribution).

"(4) UNDISTRIBUTED INCOME YEAR.—For purposes of this subsection, the term 'undistributed income year' means any prior taxable year of the trust for which there is undistributed net income, other than a taxable year during all of which the beneficiary receiving the distribution was not a citizen or resident of the United States.

"(5) DETERMINATION OF UNDISTRIBUTED NET INCOME.—Notwithstanding section 666, for purposes of this subsection, an accumulation distribution from the trust shall be treated as reducing proportionately the undistributed net income for undistributed income years.

"(6) PERIODS BEFORE 1996.—Interest for the portion of the period described in paragraph (2) which occurs before January 1, 1996, shall be determined—

"(A) by using an interest rate of 6 percent, and

"(B) without compounding until January 1, 1996.".

(b) ABUSIVE TRANSACTIONS.—Section 643(a) is amended by inserting after paragraph (6) the following new paragraph:

"(7) ABUSIVE TRANSACTIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this part, including regulations to prevent avoidance of such purposes.".

(c) TREATMENT OF LOANS FROM TRUSTS.—

(1) IN GENERAL.—Section 643 (relating to definitions applicable to subparts A, B, C, and D) is amended by adding at the end the following new subsection:

"(i) LOANS FROM FOREIGN TRUSTS.—For purposes of subparts B, C, and D—

"(1) GENERAL RULE.—Except as provided in regulations, if a foreign trust makes a loan of cash or marketable securities directly or indirectly to—

"(A) any grantor or beneficiary of such trust who is a United States person, or

"(B) any United States person not described in subparagraph (A) who is related to such grantor or beneficiary,

the amount of such loan shall be treated as a distribution by such trust to such grantor or beneficiary (as the case may be).

"(2) DEFINITIONS AND SPECIAL RULES.—For purposes of this subsection—

"(A) CASH.—The term 'cash' includes foreign currencies and cash equivalents.

"(B) RELATED PERSON.—

"(i) IN GENERAL.—A person is related to another person if the relationship between such persons would result in a disallowance of losses under section 267 or 707(b). In applying section 267 for purposes of the preceding sentence, section 267(c)(4) shall be applied as if the family of an individual includes the spouses of the members of the family.

"(ii) ALLOCATION.—If any person described in paragraph (1)(B) is related to more than one person, the grantor or beneficiary to whom the treatment under this subsection applies shall be determined under regulations prescribed by the Secretary.

"(C) EXCLUSION OF TAX-EXEMPTS.—The term 'United States person' does not include any entity exempt from tax under this chapter.

"(D) TRUST NOT TREATED AS SIMPLE TRUST.—Any trust which is treated under this subsection as making a distribution shall be treated as not described in section 651.

"(3) SUBSEQUENT TRANSACTIONS REGARDING LOAN PRINCIPAL.—If any loan is taken into account under paragraph (1), any subsequent transaction between the trust and the original borrower regarding the principal of the loan (by way of complete or partial repayment, satisfaction, cancellation, discharge, or otherwise) shall be disregarded for purposes of this title."

(2) TECHNICAL AMENDMENT.—Paragraph (8) of section 7872(f) is amended by inserting ", 643(i)." before "or 1274" each place it appears.

(d) EFFECTIVE DATES.—

(1) INTEREST CHARGE.—The amendment made by subsection (a) shall apply to distributions after the date of the enactment of this Act.

(2) ABUSIVE TRANSACTIONS.—The amendment made by subsection (b) shall take effect on the date of the enactment of this Act.

(3) LOANS FROM TRUSTS.—The amendment made by subsection (c) shall apply to loans of cash or marketable securities after September 19, 1995.

SEC. 226. RESIDENCE OF ESTATES AND TRUSTS, ETC.

(a) TREATMENT AS UNITED STATES PERSON.—

(1) IN GENERAL.—Paragraph (30) of section 7701(a) is amended by striking subparagraph

(D) and by inserting after subparagraph (C) the following:

"(D) any estate or trust if—

"(i) a court within the United States is able to exercise primary supervision over the administration of the estate or trust, and

"(ii) in the case of a trust, one or more United States fiduciaries have the authority to control all substantial decisions of the trust.".

(2) CONFORMING AMENDMENT.—Paragraph (31) of section 7701(a) is amended to read as follows:

"(31) FOREIGN ESTATE OR TRUST.—The term 'foreign estate' or 'foreign trust' means any estate or trust other than an estate or trust described in section 7701(a)(30)(D).".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply—

(A) to taxable years beginning after December 31, 1996, or

(B) at the election of the trustee of a trust, to taxable years ending after the date of the enactment of this Act.

Such an election, once made, shall be irrevocable.

(b) DOMETIC TRUSTS WHICH BECOME FOREIGN TRUSTS.—

(1) IN GENERAL.—Section 1491 (relating to imposition of tax on transfers to avoid income tax) is amended by adding at the end the following new flush sentence:

"If a trust which is not a foreign trust becomes a foreign trust, such trust shall be treated for purposes of this section as having transferred, immediately before becoming a foreign trust, all of its assets to a foreign trust.".

(2) PENALTY.—Section 1494 is amended by adding at the end the following new subsection:

"(c) PENALTY.—In the case of any failure to file a return required by the Secretary with respect to any transfer described in section 1491 with respect to a trust, the person required to file such return shall be liable for the penalties provided in section 6677 in the same manner as if such failure were a failure to file a return under section 6048(a).".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on the date of the enactment of this Act.

CHAPTER 3—REPEAL OF BAD DEBT RESERVE METHOD FOR THRIFT SAVINGS ASSOCIATIONS

SEC. 231. REPEAL OF BAD DEBT RESERVE METHOD FOR THRIFT SAVINGS ASSOCIATIONS.

(a) IN GENERAL.—Section 593 (relating to reserves for losses on loans) is amended by adding at the end the following new subsections:

"(f) TERMINATION OF RESERVE METHOD.—Subsections (a), (b), (c), and (d) shall not apply to any taxable year beginning after December 31, 1995.

"(g) 6-YEAR SPREAD OF ADJUSTMENTS.—

"(1) IN GENERAL.—In the case of any taxpayer who is required by reason of subsection (f) to change its method of computing reserves for bad debts—

"(A) such change shall be treated as a change in a method of accounting,

"(B) such change shall be treated as initiated by the taxpayer and as having been made with the consent of the Secretary, and

"(C) the net amount of the adjustments required to be taken into account by the taxpayer under section 481(a)—

"(i) shall be determined by taking into account only applicable excess reserves, and

"(ii) as so determined, shall be taken into account ratably over the 6-taxable year period beginning with the first taxable year beginning after December 31, 1995.

"(2) APPLICABLE EXCESS RESERVES.—

"(A) IN GENERAL.—For purposes of paragraph (1), the term 'applicable excess reserves' means the excess (if any) of—

"(i) the balance of the reserves described in subsection (c)(1) (other than the supplemental reserve) as of the close of the taxpayer's last taxable year beginning before December 31, 1995, over

"(ii) the lesser of—

"(I) the balance of such reserves as of the close of the taxpayer's last taxable year beginning before January 1, 1988, or

"(II) the balance of the reserves described in subclause (I), reduced in the same manner as under section 585(b)(2)(B)(ii) on the basis of the taxable years described in clause (i) and this clause.

"(B) SPECIAL RULE FOR THRIFTS WHICH BECOME SMALL BANKS.—In the case of a bank (as defined in section 581) which was not a large bank (as defined in section 585(c)(2)) for its first taxable year beginning after December 31, 1995—

"(i) the balance taken into account under subparagraph (A)(ii) shall not be less than the amount which would be the balance of such reserves as of the close of its last taxable year beginning before such date if the additions to such reserves for all taxable years had been determined under section 585(b)(2)(A), and

"(ii) the opening balance of the reserve for bad debts as of the beginning of such first taxable year shall be the balance taken into account under subparagraph (A)(ii) (determined after the application of clause (i) of this subparagraph).

The preceding sentence shall not apply for purposes of paragraphs (5) and (6) or subsection (e)(1).

"(3) RECAPTURE OF PRE-1988 RESERVES WHERE TAXPAYER CEASES TO BE BANK.—If, during any taxable year beginning after December 31, 1995, a taxpayer to which paragraph (1) applied is not a bank (as defined in section 581), paragraph (1) shall apply to the reserves described in paragraph (2)(A)(ii) and the supplemental reserve: except that such reserves shall be taken into account ratably over the 6-taxable year period beginning with such taxable year.

"(4) SUSPENSION OF RECAPTURE IF RESIDENTIAL LOAN REQUIREMENT MET.—

"(A) IN GENERAL.— In the case of a bank which meets the residential loan requirement of subparagraph (B) for the first taxable year beginning after December 31, 1995, or for the following taxable year—

"(i) no adjustment shall be taken into account under paragraph (1) for such taxable year, and

"(ii) such taxable year shall be disregarded in determining—

"(I) whether any other taxable year is a taxable year for which an adjustment is required to be taken into account under paragraph (1), and

"(II) the amount of such adjustment.

"(B) RESIDENTIAL LOAN REQUIREMENT.—A taxpayer meets the residential loan requirement of this subparagraph for any taxable year if the principal amount of the residential loans made by the taxpayer during such year is not less than the base amount for such year.

"(C) RESIDENTIAL LOAN.—For purposes of this paragraph, the term 'residential loan' means any loan described in clause (v) of section 7701(a)(19)(C) but only if such loan is incurred in acquiring, constructing, or improving the property described in such clause.

"(D) BASE AMOUNT.—For purposes of subparagraph (B), the base amount is the average of the principal amounts of the residential loans made by the taxpayer during the 6 most recent taxable years beginning on or before December 31, 1995. At the election of the taxpayer who made such loans during each of such 6 taxable years, the preceding sentence shall be applied without regard to the taxable year in which such principal amount was the highest and the taxable year in such principal amount was the lowest. Such an election may be made only for the first taxable year beginning after such date, and, if made for such taxable year, shall apply to the succeeding taxable year unless revoked with the consent of the Secretary.

"(E) CONTROLLED GROUPS.—In the case of a taxpayer which is a member of any controlled group of corporations described in section 1563(a)(1), subparagraph (B) shall be applied with respect to such group.

"(5) CONTINUED APPLICATION OF FRESH START UNDER SECTION 585 TRANSITIONAL RULES.—In the case of a taxpayer to which paragraph (1) applied and which was not a large bank (as defined in section 585(c)(2)) for its first taxable year beginning after December 31, 1995.

"(A) IN GENERAL.—For purposes of determining the net amount of adjustments referred to in section 585(c)(3)(A)(iii), there shall be taken into account only the excess (if any) of the reserve for bad debts as of the close of the last taxable year before the disqualification year over the balance taken into account by such taxpayer under paragraph (2)(A)(ii) of this subsection.

"(B) TREATMENT UNDER ELECTIVE CUTOFF METHOD.—For purposes of applying section 585(c)(4)—

"(i) the balance of the reserve taken into account under subparagraph (B) thereof shall be reduced by the balance taken into account by such taxpayer under paragraph (2)(A)(ii) of this subsection, and

"(ii) no amount shall be includable in gross income by reason of such reduction.

"(6) SUSPENDED RESERVE INCLUDED AS SECTION 381(C) ITEMS.—The balance taken into account by a taxpayer under paragraph (2)(A)(ii) of this subsection and the supplemental reserve shall be treated as items described in section 381(c).

"(7) CONVERSIONS TO CREDIT UNIONS.—In the case of a taxpayer to which paragraph (1) applied which becomes a credit union described in section 501(c) and exempt from taxation under section 501(a)—

"(A) any amount required to be included in the gross income of the credit union by reason of this subsection shall be treated as derived from an unrelated trade or business (as defined in section 513), and

"(B) for purposes of paragraph (3), the credit union shall not be treated as if it were a bank.

"(8) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out this subsection and subsection (e), including regulations providing for the application of such subsections in the case of acquisitions, mergers, spinoffs, and other reorganizations."

(b) CONFORMING AMENDMENTS.—

(1) Subsection (d) of section 50 is amended by adding at the end the following new sentence:

"Paragraphs (1)(A), (2)(A), and (4) of the section 46(e) referred to in paragraph (1) of this subsection shall not apply to any taxable year beginning after December 31, 1995."

(2) Subsection (e) of section 52 is amended by striking paragraph (1) and by redesignating paragraph (2) and (3) as paragraphs (1) and (2), respectively.

(3) Subsection (a) of section 57 is amended by striking paragraph (4).

(4) Section 246 is amended by striking subsection (f).

(5) Clause (i) of section 291(e)(1)(B) is amended by striking "or to which section 593 applies".

(6) Subparagraph (A) of section 585(a)(2) is amended by striking "other than an organization to which section 593 applies".

(7)(A) The material preceding subparagraph (A) of section 593(e)(1) is amended by striking "by a domestic building and loan association or an institution that is treated as a mutual savings bank under section 591(b)" and inserting "by a taxpayer having a balance described in subsection (g)(2)(A)(ii)".

(B) Subparagraph (B) of section 593(e)(1) is amended to read as follows:

(B) then out of the balance taken into account under subsection (g)(2)(A)(ii) (properly adjusted for amounts charged against such reserves for taxable years beginning after December 31, 1987).".

(C) Paragraph (1) of section 593(e) is amended by adding at the end the following new sentence: "This paragraph shall not apply to any distribution of all of the stock of a bank (as defined in section 581 to another corporation if, immediately after the distribution, such bank and such other corporation are members of the same affiliated group (as defined in section 1504) and the provisions of section 5(e) of the Federal Deposit Insurance Act (as in effect on December 31, 1995) or similar provisions are in effect.".

(8) Section 595 is hereby repealed.

(9) Section 596 is hereby repealed.

(10) Subsection (a) of section 860E is amended—

(A) by striking "Except as provided in paragraph (2), the" in paragraph (1) and inserting "The".

(B) by striking paragraphs (2) and (4) and redesignating paragraphs (3) and (5) as paragraphs (2) and (3), respectively, and

(C) by striking in paragraph (2) (as so redesignated) all that follows "subsection" and inserting a period.

(11) Paragraph (3) of section 992(d) is amended by striking "or 593".

(12) Section 1038 is amended by striking subsection (f).

(13) Clause (ii) of section 1042(c)(4)(B) is amended by striking "or 593".

(14) Subsection (c) of section 1277 is amended by striking "or to which section 593 applies".

(15) Subparagraph (B) of section 1361(b)(2) is amended by striking "or to which section 593 applies".

(16) The table of sections for part II of subchapter H of chapter 1 is amended by striking the items relating to sections 595 and 596.

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to taxable years beginning after December 31, 1995.

(2) SUBSECTION (b)(7).—The amendments made by subsection (b)(7) shall not apply to any distribution with respect to preferred stock if—

(A) such stock is outstanding at all times after October 31, 1995, and before the distribution, and

(B) such distribution is made before the date which is 1 year after the date of the enactment of this Act (or, in the case of stock which may be redeemed, if later, the date which is 30 days after the earliest date that such stock may be redeemed).

(3) SUBSECTION (b)(8).—The amendment made by subsection (b)(8) shall apply to property acquired in taxable years beginning after December 31, 1995.

(4) SUBSECTION (b)(10).—The amendments made by subsection (b)(10) shall not apply to any residual interest held by a taxpayer if such interest has been held by such taxpayer at all times after October 31, 1995.

EXTENSIONS OF REMARKS

TRIBUTE TO A CIA LEGEND, WILLIAM L. MOSEBEY, JR.

HON. BUD SHUSTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 27, 1996

Mr. SHUSTER. Mr. Speaker, I rise to pay tribute to William Mosebey who will receive, on Friday, March 29, 1996, the Central Intelligence Agency's Distinguished Intelligence Medal from Director of Central Intelligence, John Deutch.

Bill Mosebey has served our country with distinction for 34 years in the faroff outposts of the cold war. In those years, he rose to the highest level in the Central Intelligence Agency's clandestine service, but, more importantly he became a legend. Not since Chinese Gordon defended the gates of Khartoum has an officer reached the stature of William Mosebey. With a wry sense of humor, and a brilliant operational mind, he managed and executed the most difficult of clandestine operations, fulfilling every objective set out for him. He served as a chief of station in four countries. In each of them, he spent his share of time recruiting and managing wellplaced human penetrations.

His arrival in any post was a sure signal that the country was high on our President's priority list. His foes across the stark lines of the cold war knew that they were facing the ultimate professional—one who stands in the intelligence hall of fame with men like Richard Helms and Alan Dulles. At the same time, there was always time for a visit to the Bundu to add a new trophy to his wall.

Bill Mosebey is one of the unsung heros of our great victory over Marxism, but there is also another unsung hero and that is his wife Carolyn. In Bill's own words:

> Whatever contribution I was able to make to our national effort over the years of the cold war and after was sustained by the fact that I had a very engaged and supportive wife who, without question, would go anywhere and do anything the job demanded. As far as I am concerned she is stamped "keep forever" (an old KGB classification).

In Washington, a place that always made him long for the bush, he set an example for young officers. Never was there a time when he didn't have a moment to walk a new recruit through the intricacies of running a spy. Always ready to open his home with a homecooked meal from Carolyn's kitchen, he would entertain into the night with stories and laughter, but one came away from these evenings knowing that they had been in the presence of one of the great ones.

Mr. Speaker, Bill Mosebey is the Central Intelligence Agency's "Riley Ace of Spies." We owe him our gratitude and should shower him with our thanks. But knowing Bill, who has returned to his roots as a farmer in central Pennsylvania, he will be happy if the Sun shines, if it rains after the spring planting, and the hunting remains good this fall. But, he should also be pleased knowing that he left the Central Intelligence Agency with honor, with a distinguished record, and my enduring respect, along with those in the intelligence community, for a job well done.

A TRIBUTE TO UNDERSHERIFF RAY DORSEY

HON. JERRY LEWIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 27, 1996

Mr. LEWIS of California. Mr. Speaker, I would like to bring to your attention the fine work and outstanding public service of San Bernardino County Undersheriff, Ray Dorsey of Redlands, CA. Undersheriff Dorsey will be honored today upon his retirement after almost 29 years of service to the San Bernardino County Sheriff's Department.

Ray Dorsey was born is Los Angeles, graduated from Redlands High School, and attended San Bernardino Valley College and the University of Redlands. He began his career in July 1967, when he was appointed deputy sheriff and assigned to the Glen Helen Rehabilitation Center. After serving his first patrol assignment at the Yucaipa Station, Ray was promoted to detective, his first of many promotions, and assigned to the specialized detective division in 1971 where his responsibilities included crimes against property and homicide investigations.

With his promotion to sergeant in 1973, Ray returned to the Yucaipa Station and assumed his duties as the second-in-command. His promotion to the rank of lieutenant in 1977 was closely followed by his promotion to captain in 1980, where he was given the responsibility of commanding the Sheriff's Specialized Detective Division. Three years later, he was promoted by Sheriff Floyd Tidwell to deputy chief which gave him responsibility over the next 4 years for the Valley-Mountain and Specialized Investigations Bureaus. In 1987, Ray was promoted to assistant sheriff which gave him oversight of the departmental support operations including corrections, training, records, crime laboratory, and identification. In 1991, Ray was appointed undersheriff and given wide responsibility for the overall operations of the department. He has served in this position under the leadership of both Sheriff Dick Williams and Sheriff Gary Penrod.

Mr. Speaker, I ask that you join me, our colleagues, as well as Ray Dorsey's family and many friends, in recognizing the selfless achievements of this remarkable man. Ray has given his professional life to the San Bernardino County Sheriff's Department and has served the citizens of San Bernardino County well for almost 30 years. It is only appropriate that the House recognize Undersheriff Dorsey today as he begins his well deserved retirement.

TURKEY PROPOSES COMPREHENSIVE PEACE IN THE AEGEAN

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 27, 1996

Mr. HAMILTON. Mr. Speaker, on March 24, 1996 new Turkish Prime Minister Mesut Yilmaz issued a statement calling for a process of comprehensive negotiations to resolve all bilateral Greek-Turkish problems in the Aegean as a whole.

Mr. Speaker, it is in the national interest of the United States and in the interest of lasting peace and stability in the eastern Mediterranean region that the differences between Greece and Turkey be resolved. We should use bilateral and multilateral means, as well as third-party mediation as necessary. All available opportunities for moving negotiations forward should be explored.

The key here is action, not just rhetoric or good intentions. We will have to see whether Turkey and Greece are willing to take concrete steps to resolve their longstanding differences in the Aegean.

These two NATO allies need to work with each other, with other NATO allies and if necessary with other international institutions to resolve their mutual problems. The proposals of Prime Minister Yilmaz hopefully will provide a timely opportunity to help break the current impasse in Greek-Turkish relations.

In order to inform other Members on the substance of Prime Minister Yilmaz' proposals, I am including the text of his statement in the RECORD. The text follows:

TURKEY PROPOSES COMPREHENSIVE PEACE IN THE AEGEAN

In a statement issued in Ankara today, Prime Minister Mesut Yilmaz called on Greece to enter into negotiations without preconditions with a view to settling all the Aegean questions as a whole, on the basis of respect for international law and agreements establishing the status quo in the Aegean.

The Turkish proposal included talks on the conclusion of a political framework agreement, a swift agreement on a comprehensive set of confidence building measures related to military activities, avoiding unilateral steps and actions that could increase tension and a comprehensive process of peaceful settlement, including third party arbitration.

The statement is as follows:

"During the recent years, there have been important changes in the world political scene, with old enemies increasingly seeking peace with each other. As a matter of fact, many years ago Ataturk and Venizelos were able to settle the Turkish-Greek differences

through an epoch-making historical compromise and to usher in an era of long-term friendship and cooperation between the two countries.

"Today, we are going through a tense period in our relations with Greece. The latest crisis has demonstrated once again that the present state of Turkish-Greek relations is fraught with dangers. The fundamental interests of both countries lie in peace and cooperation, not confrontation. We both stand to benefit from developing friendly and good-neighborly relations. Turkey and Greece have to overcome the cycle of conflict into which they have been locked. The failure to settle the existing problems creates an environment conducive to the eruption of new crises. This vicious circle must be broken at some point. The leaders of both countries are faced with a historic responsibility to establish a climate of mutual confidence, to give a new structure to their bilateral relations which would be free of problems, and thus open a brand new chapter in the Turkish-Greek relations. Turkey is ready and determined to do her utmost in that regard. I believe that the Greek leaders also have the necessary political will to live up to this historic responsibility.

"The current problems between the two countries must be taken up with a new and realistic approach. By isolating them from the emotions stemming from history and the chains imposed by short-term temporary considerations, our ultimate goal should be to bring comprehensive and lasting solutions to all the differences and problems between the two sides, especially those related to the Aegean Sea. An eventual settlement of the Aegean issues will only be viable and lasting if it is built on the fundamental rights and legitimate interests of both countries. For that reason, we should discuss our differences on the basis of mutual respect and with a willingness to reach a compromise.

"Turkey is a law-abiding country. In keeping with international law, she has always respected the territorial integrity and the inviolability of borders of all her neighbors, including Greece. In a similar vein, Turkey harbors no intention towards altering the status quo in the Aegean through unilateral steps and to make gains by de facto actions. An essential aspect of Turkey's position on the Aegean issues is respect for the status quo in the Aegean which was established through international agreements. These are the basic principles defining Turkey's approach to both her relations with Greece and the matters related to the Aegean. We have the right to expect Greece to display the same understanding and approach. If Greece also adopts these principles, it will be much easier to reach mutually acceptable solutions than is generally thought. In this spirit, Turkey wants to see all disputes pertaining to the Aegean settled through peaceful means in accordance with international law. She stands ready for such a settlement.

"I am therefore calling on Greece to enter into negotiations without preconditions with a view to settling all the Aegean questions as a whole.

"The search for a comprehensive and lasting solution will be conducted on the basis of respect for international law and the international agreements establishing the status quo in the Aegean. The talks that could be started on an exploratory basis shall not prejudice the respective positions of both sides regarding the substance of the issues.

"When it comes to peaceful means of settlement which would be appropriate to the special nature of the Aegean questions, Turkey does not rule out from the outset any method based on mutual acceptance. We have no prejudices in this respect. Accordingly, we are prepared to discuss with goodwill appropriate third party methods of settlement. The form, conditions and legal requirements of such methods can be taken up in detail in the course of the talks.

"The fundamental aim of such a peace process would be to resolve the differences that emerged after the historic compromise brought about by Ataturk and Venizelos. It is, therefore, essential for the two parties to rise to the occasion and take utmost care to avoid being tempted by petty political gains and a dangerous opportunism, if the peace process is to succeed.

"Concurrently with the initiation of a process of peaceful settlement aimed at bringing a comprehensive and lasting solution to the Aegean disputes, Turkey is also ready to start talks on the conclusion of a political document/declaration containing the basic principals that will govern the relations between the two countries or an agreement of friendship and cooperation. Such a political framework agreement, in addition to the fundamental principles on which the relations will be based, may also specify the avenues of cooperation as well as the procedures and settlement methods to be applied in case of the emergence of differences.

"Likewise, simultaneously with this process, I also propose to start talks in this transitional period with a view to bringing about a swift agreement between the two countries on a comprehensive set of confidence building measures related to military activities.

"Once the process of peaceful settlement is thus initiated, the two sides will naturally have to avoid unilateral steps and actions that could increase tension.

"I am proposing to Greece to engage in a comprehensive process of peaceful settlement that will not exclude from the beginning any method of settlement including third party arbitration. This will make an immense contribution to the strengthening of peace and stability in our region. Similarly, bringing a comprehensive solution to the Aegean questions will also contribute to the settlement of other questions in eastern Mediterranean on their own merits and within their own parameters. As our Greek friends frequently say, "actions speak louder than words." I, therefore, propose action, not words.

"I sincerely hope that Greece will give due consideration to our call for a peaceful settlement based on international law and legitimacy and will not let this historic opportunity slip away. This process may require a period of reflection and preparation. Whenever they respond to our proposal positively and are ready to engage in such a process, Turkey will also be ready.

"I am sure that our two nations living across each other along the shores of the Aegean do not want tension between them. They do not want mutual enmity. What they do want is peace, friendship and cooperation. I believe that as two nations with deep roots in history, the Turkish and Greek peoples deserve them.

"The late President Turgut Ozal, in a speech during a 1985 visit to the United States, stressed the need for such a compromise and said that we owed this to the future generations. I believe that we owe this not only to the future generations, but also to the present generation. History never forgives those who shrink from their responsibility."

TRIBUTE TO 100TH ANNIVERSARY OF APOLLO CLUB MALE CHORUS OF MINNEAPOLIS, MN

HON. JIM RAMSTAD

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 27, 1996

Mr. RAMSTAD. Mr. Speaker, I rise today to bring attention to the prestigious history and legacy of excellence for more than a century of the Apollo Club Male Chorus of Minneapolis, MN.

Just last year, the Apollo Club celebrated 100 years of truly superior musical performances. This marvelous chorus of amateur musicians exemplifies the spirit that makes our country great—friends from all walks of life, gathering outside of their daily and professional lives to fashion a powerful bond made possible only by a common, shared goal in which the group takes precedence over the individual.

The members of the Apollo Chorus have proven for more than 100 years what can be accomplished through a strong work ethic, teamwork, and a commitment to excellence.

The chorus has sung the works of history's greatest composers—Bach, Beethoven, Mozart, and others—all around our great Nation as well as overseas, wowing audiences with its unique, full, and mellow sounds.

Mr. Speaker, from its birthplace at the home of Col. Charles McC. Reeve on the south shore of Lake Harriet in Minneapolis, the chorus has graced a global stage over the years which has included performances at President Eisenhower's inaugural in 1957, the World's Fair in Brussels in 1958, the memorial atop the sunken Battleship *Arizona* at the Pearl Harbor commemorative ceremony in 1985 and international festivals from Wales to Nancy, France.

Among its many awards and honors, the Apollo Male Chorus won second place at the renowned Eisteddfod Choral Festival in 1982. But despite the chorus' success in musical competition, the Apollo Club's real focus has been on moving people with their special music, and educating audiences about the choral style they practice so eloquently.

Mr. Speaker, the members of the Apollo Chorus through the years have been true pioneers of choral song. Audiences swing and sing to the Apollo's international collection of rhythms.

In Greek mythology, Apollo stood for clarity, order, and harmony. In a world that too often leaves us stunned because of its chaos and discord, the Apollo Club delivers a much-needed message of peace and togetherness. Today we thank all the club's singers, leaders, officers, and special musical guests for their gift of beautiful music and extraordinary harmony.

Today, we salute the Apollo Club Male Chorus of Minneapolis for a century of wonderful entertainment and we honor this outstanding group for the joy its members have brought to our lives. The people of Minnesota are proud of the Apollo Club Male Chorus, and we wish them many more years of success.

INDIAN PREMIER SHRUGS OFF SCANDAL

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 27, 1996

Mr. SOLOMON. Mr. Speaker, I insert for the RECORD a recent New York Times article regarding the latest corruption scandal in India. The article makes plain that though it is an ostensible democracy, India's system is rotten to the core. Isn't it time the United States stops dumping American taxpayer money into this black hole?

[The New York Times International, Feb. 25, 1996]

INDIAN PREMIER SHRUGS OFF SCANDAL

(By John F. Burns)

NEW DELHI.—After four resignations this week brought to seven the number of Indian Government ministers who have quit since the start of the year in a corruption scandal, Prime Minister P.V. Narasimha Rao told a rally of his governing Congress Party not to worry about the general election expected in April or May.

"The Congress is certain to lead the country," Mr. Rao said at a gathering on Friday of the party's youth wing in Guwahati, the capital of the northeastern state of Assam.

Indians were left to wonder whether Mr. Rao was engaging in bravado or displaying the canny political instincts for which he is renowned.

In the midst of a scandal that many Indian commentators have described as the worst since independence, few discount the possibility that Mr. Rao may yet turn the situation to his advantage.

Opinion surveys have suggested that the Congress Party, which has governed India for all but four years since 1947, has been heading for a drubbing at the polls. Political conjecture focused less on whether the Congress would lose its majority in the 535-seat Parliament than whether it would muster enough seats to lead a coalition

Many analysts forecast a breakthrough for the main opposition group, the Bharatiya Janata Party, whose brand of Hindu nationalism has troubled many Indians attached to the country's secular political tradition.

The Congress Party's woes were frequently blamed on Mr. Rao, who is 74, an uninspiring stump campaigner and beset with what many Indians have said is a near-fatal liability in a Congress leader: a lack of the popular appeal associated with the Nehru-Gandhi political dynasty.

Then came the corruption scandal, involving widespread bribes and kickbacks for Government contracts in a country where nearly half of all officially recorded economic activity is carried out by state-owned industries.

In addition to losing seven ministers, Mr. Rao has been faced with a welter of accusations that he was a beneficiary of some of the payoffs, including a transaction in 1991 in which the accuser says Mr. Rao took 30 million rupees, then the equivalent of $1.7 million, in return for steel contracts.

Yet throughout the weeks that the scandal has been growing, Mr. Rao has remained publicly serene.

Aides say the Indian leader believes that the payoff disclosures could be the savings of the Congress Party at the polls because they have snared major figures in the opposition parties as well as his own, thus depriving the opposition of corruption as an election issue.

One aide, Vithal N. Gadgil, has even said that Mr. Rao will present himself in the election as "Mr. Clean."

What is certain is that the controversy has rocked the opposition Bharatiya Janata Party, or B.J.P., at least as much as the Congress. The first wave of indictments last month included the B.J.P. president, L.K. Advani, who is regarded as the most ardent propagator within the party's upper ranks of the Hindu nationlist creed.

Broadly speaking, this holds that India should shift away from the secularism that has been a Congress principle toward an approach to government that gives primacy to the 700 million of India's 930 million people who are Hindus.

This week, the scandal claimed a new opposition victim in the resignation of Madan Lal Khurana, who as Chief Minister of the Delhi capital district was one of Bharatiya Janata's most prominent elected officials.

Like the 25 other politicians who have been indicted, Mr. Khurana's name appeared in what prosecutors have described as coded entries in diaries listing payoffs of more than $35 million that were seized in 1991 from the New Delhi home of a prominent industrialist, Surendra K. Jain.

Press accounts say Mr. Jain confessed to investigators last year to having been, along with one of his brothers, the principal paymaster in a web of corruption that ensnared dozens of leading politicians and public officials.

In addition to cash bribes, Mr. Jain is said to have told of paying for expensive gifts that included Mercedes-Benz cars, Belgian crystal and foreign trips. Details of many of the payoffs were listed in the diaries, against the initials of the recipients or, in some cases, their telephone numbers.

Mr. Rao seems certain to face heavy criticism in the election campaign for what opponents have described as an attempted coverup.

Nearly four years passed after the police seizure of the dairies before the Central Bureau of Investigation, which is under the Prime Minister's direct control, made a sustained attempt to question, Mr. Jain and others alleged to have been involved in the payoffs. Even then, the investigative agency delayed any indictments until the Supreme Court intervened in November and set deadlines.

When the director of the investigation bureau reported to the Supreme Court this week that his agency had no "reasonable basis" for charges to be brought against Mr. Rao, the court ordered the investigators not to close the probe of "any person," no matter how important, until all leads were explored.

A lower court in New Delhi followed up on Friday by ordering the bureau to investigate allegations that Mr. Jain, on Prime Minister Rao's orders, paid out nearly $1 million in 1993 to bribe opposition members of Parliament into switching parties, thus saving the Rao Government from defeat on a nonconfidence motion.

There has been widespread debate over whether Mr. Rao kept the lid on the scandal until shortly before the election so as to be able to use the indictments against opponents—and allies whose loyalty he doubted—or whether pressure from the Supreme Court forced his hand.

In any case, many Indians say the scandal has reached proportions that will lead to a far-reaching cleanup of Indian politics.

Previous scandals have subsided without a major shake-up in the political establishment. But this time, many commentators predict, the involvement of the Supreme Court will make it hard to contain the fallout.

"It will not fizzle out," said Rajinder Puri in The Times of India. "The process of destabilizing a rotten, corrupt, repressive and anti-people system will continue until reforms and a new system takes its place."

ANSWERING AMERICA'S CALL

HON. PAT ROBERTS

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 27, 1996

Mr. ROBERTS. Mr. Speaker, I submit the following script written by Mr. Bradley Areheart, State winner of the Veterans of Foreign Wars of the United States and its Ladies Auxiliary Voice of Democracy broadcast scriptwriting contest. Mr. Areheart is a junior at Emporia High School in Emporia, KS and plans a career in medicine or politics. He was sponsored by the VFW Post 180 in Emporia. The contest theme this year was "Answering America's Call." Bradley has done a wonderful job of capturing the sense of duty that each of us has toward our fellow Americans and toward our future generations. I encourage each one of my colleagues to read Bradley's message and take his suggestions to heart.

ANSWERING AMERICA'S CALL

It's 2:00 in the morning and a lady clutches her heart as if struck! A heart attack! She staggers to the phone and frantically dials the numbers 9-1-1. The police dispatcher's voice comes across clearly but in a lethargic sounding tone. The lady, gasping, screams, "Help me! Help me! I've had a heart attack! Get someone out here!" "Wait right there; I'm going to put you on hold," is the dispatcher's reply as she picks up another line. A frantic call, put on hold by an apathetic operator. Important? Yes, and that call is not unlike the call being made today. A call of far greater importance to everyone in the United States. That call is America's plea for the future; we have several options as we hear that call. We can answer immediately, ignore it, or just like the apathetic operator, put it on hold. However, in my mind, we have only one clear option. If we are to be responsible, caring citizens, we must answer America's call.

Former Secretary of State Cordell Hull said, "I am certain that however great the hardships and the trials which loom ahead, our America will endure and the cause of human freedom will triumph." How truly this reflects the time since the foundation of our nation. In the 1700's America sounded a call for freedom from oppression so 50 brave Americans answered this call and signed the Declaration of Independence. The early part of this century saw America facing the perils of the depression and Franklin Roosevelt rose to meet the call by instilling hope and providing employment. In 1941, when the Japanese bombed our ships in Pearl Harbor, courageous Americans answered the call to arms and continued to fight until the Japanese surrendered. Indeed, history is filled with stories of how Americans have always met their country's call. But what if these calls had been left unanswered or put on hold? What would become of them? And more importantly, what would become of our country? We cannot be half-hearted and we

haven't been. We confront situations like a raging bull who has his eyes fixed only on the matador. And that's how things get done—full force? America answers the call because of patriotic citizens and leaders who see a light at the end of the tunnel. America will continue to answer the call because of compassion, pride, and love of country.

I am a youth of today, but a leader of tomorrow. I face certain responsibilities: the responsibility of speaking up for what's right, setting an example, and a willingness to fight for my country.

But currently, America's call is for the future. A call that is widespread and impossible to ignore. It's a call to return to basic values and truths that have always made America so great. The call is for safer streets, moral integrity, and family values. Former president Dwight Eisenhower said that "the problems of America are the family problems multiplied a million fold." And isn't that evident in today's society? As tomorrow's leaders, my generation must answer the call to become responsible, moral, intelligent, and patriotic citizens. The ideals of life, liberty, and the pursuit of happiness are not just empty words and must be stressed for all citizens. We cannot accept the attitude "It doesn't matter how I act; I'm just one person." Instead, we must share the feelings of so many Americans who say" "I love my country; I sincerely care about its future." That attitude must now direct all of us. There's an African proverb that says "it takes an entire village to raise a child." The time has come for all of us in the village to accept responsibilities. You see, we can determine needs and become catalysts for change. America's future demands the commitment of everyone to not only hear, but also answer America's call. Whether it be a call to arms or a call to peace.

Today's call is not an emergency 911 situation because America maintains her greatness at home and abroad. Our commitment must be to maintain that greatness and preserve our freedoms and liberties for future generations. I want to make sure that America is never like the woman making the 911 call, who despite her efforts to get help, is ignored. When my generation answers the call to become responsible citizens, we will be there to be counted. I promise my contributions by pursuing higher education, voting, and maintaining my morals and integrity. When everyone in my generation follows this lead, we will truly be answering America's call.

ANSWERING AMERICA'S CALL

HON. ROBERT E. WISE, JR.

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 27, 1996

Mr. WISE. Mr. Speaker, I would like to introduce for the RECORD a script written by John Shirley, a constituent from Berkeley Springs, WV. This script was West Virginia's winning entry into the Veterans of Foreign Wars—Voice of Democracy broadcast scriptwriting contest.

John's script stresses the importance of both cooperating and making unselfish, individual contributions in determining how well the ideals that make America will work for all of us. I encourage my colleagues to keep John's script in mind as we work to find effective solutions to the problems that currently face our Nation.

ANSWERING AMERICA'S CALL

Lost in the maddening crowd of passersby, I walked along the city street. Above the automobile horns and screaming car stereos, I heard a woman's sobs. I made my way through the wall of pedestrians and found her crying as she sat alone on a broken park bench. I sat down beside her and asked her what was wrong.

She gently took my hand and spoke. "Nobody cares about me anymore." I asked her what she meant.

She wiped her tears and struggled to speak again. "There is so much. I see hungry, homeless children shivering on the street. Drug deals take place beside them, and too often they get sucked in. I hear screams at night; men and women beat each other and their children. Gang wars take place on the streets, killing kids and innocent bystanders.

Students drop out of school and depend upon welfare to survive. They never strive to be their best; they settle for second or third place and I have to do the same.

Every day I wear the same white blouse and the same black slacks to make a statement. They are like two races with no connection, no relation and no understanding—just like me.

And worst of all, nobody cares about any of this. They won't use their rights. They don't speak out; they refuse to write it down; they refuse to force the politicians that fight over my body to think rationally and fairly; they refuse to realize the danger."

She buried her head in her hands and I tenderly placed my hand on her shoulder. The sun was setting and I knew that I had to leave. As I walked away I asked her name.

She quietly responded, "My name is America."

I tried to go home but something drew me back. I went to the bench to find her, but she was gone.

America cries out for help, how do we answer her call? A nation is comprised of individuals; in order to change our nation we must change ourselves. We must recognize the problems of America and more importantly, search for the ways to solve them. We need to get involved in our schools, communities and governments whether it be local, state or national.

Education is the key to awareness and understanding. Unfortunately, our current educational system leaves many students behind. Little regard is given to students' individual needs and learning styles. They want and need to know why in addition to how. If education is related to the real world, students will understand its real value.

In addition to formal education, America's youth must be given a basic system of values and beliefs both at home and in the community. We must make them aware that all people are equal despite differences in race, color or creed.

Community is the crucial link between individuals. Civic groups can and have successfully engineered and implemented programs for public education and support. Halfway houses and shelters for women and runaways provide many people with refuge from the streets and a second chance for success. Literacy classes and G.E.D. programs give hundreds of individuals the skills they need for employment. Communities can also come together to combat the growing problem of crime in America. Community watch groups and volunteer patrols have been effective in many American neighborhoods.

Government, the most integral part of America as we know it, has also been neglected. We are not controlled by the government; we are the government and must take an active role in its function. We can do this not only by running for a political office but also through such simple acts as signing a petition, participating in a campaign or rally, writing letters to public officials, voicing our opinions in the news media or by making informed choices at the next election.

These are all things that we can do but what will we do? We must choose our role and get involved. Our greatest victories are not achieved in armed conflict on foreign soil; they are achieved in our everyday lives as active American citizens. If we all take part, then we can ensure that America will not sit crying alone on a broken park bench. Instead, she will continue to hold and protect us and will forever remain in the greatest nation on earth.

A TRIBUTE TO ASSISTANT SHERIFF JIM BRADFORD

HON. JERRY LEWIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 27, 1996

Mr. LEWIS of California. Mr. Speaker, I would like to bring to your attention the fine work and outstanding public service of San Bernardino County Assistant Sheriff Jim Bradford, Jim will be honored today upon his retirement after nearly 27 years of service to the San Bernardino County Sheriff's Department.

Jim grew up in California, graduated from Colton High School, and obtained an associate of arts degree in business administration from San Bernardino Valley College and a bachelor of science degree in public management from Pepperdine University.

Jim began his career with the San Bernardino County Sheriff's Department as a line reserve deputy sheriff at the Yucaipa station in 1967. After serving as a volunteer for 2 years, Jim sold his business and became a full-time deputy sheriff in 1969 and was assigned to the Glen Helen Rehabilitation Center. He remained there until 1971 when he was reassigned to the Yucaipa station where he served as a patrol deputy and a reserve deputy coordinator. In 1973, he was promoted to detective and was assigned to the central detective division in San Bernardino.

Jim was promoted to sergeant in 1975 and returned to the Glen Helen Rehabilitation Center until his reassignment in 1977 as detective sergeant to the central detective division. Three years later, he was promoted to lieutenant where he served as unit commander in the crimes against property and homicide details. Jim was promoted to captain by Sheriff Floyd Tidwell in 1983 and was assigned to central station where he also served as chief of police for the cities of Loma Linda and Grand Terrace. Jim took command of the sheriff's bureau of administration with his promotion to deputy chief in 1987. Four years later, he was promoted once again to the position of assistant chief in charge of criminal operations by Sheriff Dick Williams.

Mr. Speaker, I ask that you join me, our colleagues, as well as Jim Bradford's family and many friends, in recognizing his many outstanding achievements. Jim has devoted his

professional life to the San Bernardino County Sheriff's Department and has served the citizens of San Bernardino County well for nearly 27 years. It is only appropriate that the House recognize Assistant Sheriff Bradford today as he begins his well deserved retirement.

PENSIONS

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 27, 1996

Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington Report for Wednesday, March 27, 1996 into the CONGRESSIONAL RECORD.

PENSION PLANS: SAVING FOR A SECURE RETIREMENT

I am impressed by how many constituents stress the importance of working toward a good pension and a comfortable retirement. They put in many long hours to pay the bills and put their kids through school. They emphasize the value of hard work and sacrifice, and believe that a life of hard work should be rewarded with a secure retirement.

Many, however, are increasingly concerned about the outlook for their retirements. They find themselves working harder, often at more than one job, but can't seem to find the money to put away for retirement. In the past, Americans could rely on their employer to guarantee a pension, but the trend in recent years has been toward employers providing less generous pension benefits or no benefits at all, reflecting in part the shift from manufacturing to service-oriented businesses.

The average American will live about 18 years in retirement, more than ever before. Workers will need on average 70% of their pre-retirement income to maintain their standard of living. Today, half of all full-time workers have no private pension coverage. Most Americans rely on a combination of Social Security, individual savings, and pension plans for retirement, but traditional pension benefits represent a shrinking portion of retirement income. Since few pension plans are adjusted for inflation, the benefits retirees ultimately receive can only go so far. Increasingly, employees, rather than employers, are responsible for their pension savings and investment.

PENSION PLANS

There are two basic types of private pensions. The more traditional pension plan—a defined benefit plan—involves a company guaranteeing its workers a set monthly pension benefit based on earnings and years of service. A defined contribution plan, in contrast, involves an interest-bearing account established for each employee into which a contribution is made by the employee, and sometimes the employer. The employee is not guaranteed a set monthly benefit, but receives whatever funds are available in his account upon retirement. Of the 64 million active participants covered by private pension plans, about 39% are covered by a define benefit plan,while the remaining 61% are covered by a defined contribution plan.

In recent years, many employers have shifted from defined contribution plans. The federal government insures and regulates defined benefit plans, adding to their overall cost. Defined contribution plans, like 401(k) plans, are not federally insured and are less complicated and less costly for employers. Career employees tend to favor defined benefit plans because the pension is more predictable and larger. Employees who often change jobs fare better under defined contribution plans because they are portable.

CONCERNS

Concerns have been raised about both types of plans. Defined benefit plans are generally considered safer than contribution plans because they are federally insured and the employer bears the investment risk. Current law, however, does permit businesses to underfund their plans. Furthermore, the soundness of the government fund which insures defined benefit plans has been questioned. Most pension funds are adequately funded, but the federal insurer, the Pension Benefit Guaranty Corporation, has had to step in to pay benefits when bankrupt companies have been unable to do so. Congress, with my support, has taken steps to shore up the insurance fund, but underfunding continues to be a problem among some plans.

Defined contribution plans create a different set of problems. There are substantial funds invested in these plans. Today 401(k) plans, for example, hold $550 billion in assets for 22 million employees, and these plans continue to grow. These plans, however, are not federally insured. Also, recent news reports have shown a number of these plans to be susceptible to fraud. Investment decisions and risks lie with employees. Consequently, more responsibility is placed on employees to know what options they have, to invest their contributions wisely, and to monitor the management of pension funds.

POSSIBLE REFORMS

Congress can take steps to protect pension plans.

First, Congress should block efforts to let employers withdraw money from currently overfunded pension plans. Current law allows companies to use assets from overfunded plans only for retiree health benefits. Speaker Gingrich favors a change in the law to permit companies to raid surplus pension assets for other business purposes. I strongly oppose this proposal.

Second, Congress should consider ways to ease the regulatory burden on pension plans to encourage more companies, particularly small businesses, to establish plans for their employees. Tax incentives and simplified, uniform regulations for employers who offer plans can do much to offer American workers some security in their retirement.

Third, we should look for ways to make pension plans more portable. As workers move from job to job, it is important that they be able to carry benefits and contributions with them. Defined contribution plans offer workers this option, and because of the growth in such plans over the last 10 years, workers' pension plans have become more portable. Defined benefit plans are less portable than contribution plans because employers want to encourage their employees to stay at their jobs. In cases where employees do leave, they should be encouraged to roll over their contributions into an IRA rather than cash out their contributions.

Fourth, we must look at ways to further protect the assets which workers invest in 401(k)'s and other contribution plans, particularly given their recent enormous growth. The Labor Department has proposed several reforms, such as shortening the time an employer has to deposit employee contributions from the current 90-day period and encouraging employers to offer workers general investment information so that employees can better monitor their own plans.

CONCLUSION

Americans understand that planning for the future is crucial, and the sooner they start to save the better. It has become increasingly difficult, however, for workers to set aside a portion of shrinking salaries for retirement.

Congress should consider measures to protect the integrity of the private pension system as well as Social Security, and encourage businesses to expand coverage to those without a pension plan. I have co-sponsored a bill that would create a federal commission to study the pension issue and develop proposals to increase participation in pension plans and provide more protection for pension assets.

JOB CORPS IMPROVEMENT ACT OF 1996

HON. BOB FRANKS

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 27, 1996

Mr. FRANKS of New Jersey. Mr. Speaker, today I am introducing legislation to make the Job Corps safer for program participants and more cost-effective for taxpayers.

I support the Job Corps and its important mission. But for too long, Congress has tolerated too much waste, fraud, and inefficiency in this program. The American taxpayer wants more accountability, and the young people that the Job Corps serves need to better prepare themselves for an increasingly competitive job market. My legislation targets these two goals.

Job Corps was created more than three decades ago as part of President Lyndon Johnson's war on poverty. Presently, it is funded at over $1 billion a year, and it is the largest job training program for disadvantaged youth between the ages of 16 and 24.

In 1994, a survey of Job Corps students showed that 68 percent of enrollees had two or more barriers to employment, including not having a high school diploma, lacking basic skills or having limited English proficiency. The program currently serves over 60,000 young adults in 46 States.

The original idea behind Job Corps was to give disadvantaged youths a hand up in order to avoid a lifetime of hand-outs. But as times have changed, so have the problems facing Job Corps students.

And in too many instances the Federal Government has been too slow in adopting policies to adjust to changing times. Today many Job Corps students come from one parent homes in communities ravaged by crime, drugs, and violence—problems whose proportions could scarcely be imagined a generation ago.

In order to maintain an environment within which young people can learn, the centerpiece of my bill institutes a zero tolerance policy for drugs, alcohol abuse, and violence in the Job Corps. I know the Job Corps bureaucracy has recently made strides in combating these scourges. But because violence, alcohol abuse and drugs are anathema to a productive learning environment, Job Corps students deserve a guarantee in law that these centers can be a sanctuary where students can live

and learn without fear. My bill ensures that those who enter the Job Corps in order to learn can do so, and those who enter the program without that commitment will be weeded out before they disrupt those who are intent to learn new job skills.

My bill also contains a provision requiring the Department of Labor to undertake an in-depth, comprehensive review of the entire Job Corps program. The purpose of this review would be to ascertain what the Job Corps does well and where further improvement is needed. Such a review has not taken place since 1982, and hard data on how well the Job Corps is fulfilling its mission is largely unknown. For example, the Department of Labor estimates that the overall job placement rate for Job Corps graduates is 70 percent, but some centers have had rates as low as 20 percent for 5 consecutive years. Furthermore, a recent General Accounting Office study found that fully 15 percent of Job Corps' job placement verification procedures were invalid. That means that some Job Corps centers were reporting that their graduates were finding jobs, when in fact they were not.

Reforms are needed to ensure that Job Corps enrollees obtain work upon graduation, and are not merely shuffled through the program. Considering that the average Job Corps student costs taxpayers $24,000 to train, it is no longer acceptable to assess the performance of this program by collecting anecdotal evidence. The comprehensive Job Corps review called for under my legislation is closely modeled after a proposal offered by Senator ARLEN SPECTER of Pennsylvania that passed the Senate last October. It will give Congress and the Department of Labor credible statistics that will allow us to make informed judgments on how best to improve and strengthen this important job training program.

My bill also limits the spending on the Job Corps bureaucracy to 13 percent. Currently 18 percent, or over $180 million is spent on administering this program. That figure is too high, and indicates that efficiencies can be made within the bureaucracy to reduce costs. I want more money spent on students, not on bureaucrats. My bill would force the Department of Labor to examine Job Corps' overhead budget, find the waste and eliminate it.

Today, there are 109 Job Corps centers throughout the country. In an effort to upgrade the performance of each of them, my bill would eliminate the 10 worst Job Corps centers in the Nation by the end of the century. At some Job Corps centers, the buildings and living quarters are in disrepair, the management is inept, the training that students receive is ineffective, and worst of all, violence and drugs are prevalent. Those centers need to be cleaned up or closed down, so the funds saved from their closure can be funneled to productive, well-run centers.

Job Corps is the most expensive Federal youth employment and training program. Despite the fact that Congress is consolidating nearly 100 education and training programs into State block grants, funds for Job Corps are actually slated to increase. The reason Congress has retained this program is because it has demonstrated some meaningful success. Many people are unaware that Job Corps students who do complete their training are five times more likely to get a training-related job, and training-related jobs pay 25 percent higher wages. Moreover, employers who hire Job Corps graduates are generally satisfied with their Job Corps hires.

My bill preserves what is right about Job Corps, and strengthens it for the future. It makes significant reforms to this program, with the promise of additional reform when the comprehensive performance review it calls for becomes available. The Federal Government's investment in this program is too great not to demand improvements, and the at-risk youths this program serves need what this program offers more than ever.

Mr. Speaker, without the Job Corps, many of today's disadvantaged youth would be unskilled, unemployable, and without hope. When it is successful, the Job Corps breaks the cycle of despair and turns unfocused youths into productive citizens. I support an effective Job Corps, and I will continue to fight to improve this important program.

CONGRATULATIONS REPUBLIC OF CHINA

HON. DAN BURTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 27, 1996

Mr. BURTON of Indiana. Mr. Speaker, on March 23, 1996, the people of the Republic of China on Taiwan overwhelmingly elected Lee Teng-hui as their first directly elected President. Mr. Lee's landslide victory was a clear indication of the voters' confidence in President Lee's ability to handle the challenges that lie ahead for his country. The voters' enthusiasm for this election also proves that democracy is not a system of government unimportant to Asians. The Republic of China on Taiwan should be commended for taking this final step in its transition to a full-fledged democracy, and in my opinion, President Lee is the perfect man to lead Taiwan to even greater achievements in the future. I congratulate the people of the Republic of China on Taiwan on their presidential election.

TRIBUTE TO THE LATE POLICE COLONEL BENJAMIN FRANKLIN AGUON LEON GUERRERO

HON. ROBERT A. UNDERWOOD

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 27, 1996

Mr. UNDERWOOD. Mr. Speaker, the island of Guam lost one of its premier public servants last Friday night March 22. Guam Police Col. Benjamin Franklin Aguon Leon Guerrero, a man who dedicated half his life in service to the people of Guam through the police department, was stricken by a heart attack which caused his untimely death. He was only 44 years of age.

Col. Leon Guerrero, a close personal friend, worked through the ranks at the Guam Police Department starting out as a patrol officer. Prior to joining the police force, I vividly remember him as a school aide working under my supervision at George Washington High School in Mangilao. Since then, I eagerly watched his rise in the ranks while taking upon various tasks for the department of public safety, the department of corrections, and the Guam Police Department. He went on to become the most senior ranking classified officer in the Guam police force. He was later appointed to be the deputy chief of the Guam Police Department.

I must also make special mention that he was a published poet and a graduate of the 156th session of the Federal Bureau of Investigation [FBI] National Academy. In fact, it wasn't too long ago that I submitted a statement in the CONGRESSIONAL RECORD commending him for having been the first president of the FBI National Academy Hawaii Chapter to hail from outside the State's confines.

His more than 20 years of public service yielded him a collection of awards and decorations. They include the J. Edgar Hoover Medal for Distinguished Public Service, the Guam Police Commendation Service Award, the Guam Police Distinguished Service Medal, the Commanding Officer's Citation, and the Exception Performance Award. He is also listed in the 1992 edition of "Who's Who in American Law Enforcement."

The late Col. Leon Guerrero left a legacy of service and devotion to the island of Guam, to its people and to the United States as a whole. He is remembered my many as a mentor, an adviser, and a great man sensitive to the needs, not only of the police department, but the whole island of Guam.

His passing is a great loss and his presence will surely be missed. On behalf of the people of Guam, I offer my condolences and join his widow, Julie, and their children: Benjamin Franklin II, Peter Jesse, Jesse Ray, Sheena Marie, and Lolana Evette, in mourning the loss of a husband, a father, a very dear friend, and fellow servant to the people of Guam.

TRIBUTE TO G.W. CARVER MIDDLE SCHOOL

HON. CARRIE P. MEEK

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 27, 1996

Mrs. MEEK of Florida. Mr. Speaker, it is my great pleasure to pay tribute to the staff and students at George Washington Carver Middle School upon their recent award as a Blue Ribbon School of Excellence.

Through strong support from the school district and the regional office, through progressive leadership, committed teachers and counselors, with a clear mission, dedicated students and very involved parents, George Washington Carver has become the only middle school in Dade County to receive the Blue Ribbon of Excellence Award from the U.S. Department of Education.

G.W. Carver Middle School Center for International Studies is the only public middle school to be recognized and accredited by the Governments of France, Spain and Germany. Some of Carver's teachers and textbooks

have been provided through the Governments of France and Spain.

Carver Middle School is a magnet school for international studies whose curriculum models the European system of studies, and students' tests scores are among the highest in all standardized tests. It has the highest attendance among Dade County schools, and exemplifies how school violence can virtually be eliminated.

Before 1970, Carver was the pride of the Coconut Grove black community, however, by 1986 plans were being considered to close the school because of dwindling enrollment. Now, 10 years later, it is a source of pride for the community and an example for all of us to follow.

For your superlative educational efforts, I salute you.

UNITED STATES-ORIGIN MILITARY EQUIPMENT IN TURKEY

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 27, 1996

Mr. HAMILTON. Mr. Speaker, on September 8, 1995, I wrote to Secretary of State Christopher, asking several questions about the use and possible misuse of United States-origin military equipment by Turkey. This letter was a followup to an exchange of letters on the same issue earlier in the year, which I inserted in the RECORD at that time.

I have now received a response from the State Department to my September letter, which sets out the administration's position on the human rights situation in Turkey and its relationship to the issue of U.S.-supplied military equipment in the country.

Since I believe that other Members will find the administration's views informative and useful in formulating their own approach to this important issue, I would like to insert both my letter and the administration's response in the RECORD.

DEPARTMENT OF STATE,
Washington, February 29, 1996.

Hon. LEE HAMILTON,
U.S. House of Representatives.

DEAR MR. HAMILTON: This is a follow-up reply to your letter of September 8, 1995, to Secretary Christopher about human rights in Turkey. As stated in our November 1, 1995 interim response, you raised a number of serious questions in your letter. Thank you for your understanding in allowing us time to prepare this reply.

In your letter, you state that human rights abuses in Turkey are a matter of real concern to the U.S. Congress. We appreciate your interest and that of your colleagues in these issues. Congressional hearings, reports, and statements are a valuable way for the U.S. government to indicate concern about human rights in Turkey.

As we consider how best to pursue our objectives in Turkey, it is important to understand just what Turkey is up against. The Kurdistan Workers' Party (PKK) has stated that its primary goal is to create a separate Kurdish state in part of what is now Turkey. In the course of its operations, the PKK has frequently targeted Turkish—civilians. It has not hesitated to attack Western—including American—interests.

The Turkish government has the right to defend itself militarily from this terrorist threat. The Turkish military has said it seeks to distinguish between PKK members and ordinary Kurdish citizens in its operations. We remain concerned, nevertheless, about the manner in which some operations in the southeast have been conducted. As we have documented in our annual human rights reports and in the special report we submitted to Congress last June on the situation in the southeast, these operations have resulted in civilian deaths, village evacuations and burnings.

You ask what the U.S. is doing about information that U.S.-supplied defense articles may have been used by Turkey's military against civilians during the course of operations against the PKK. We discussed those issues at length in our June "Report on Allegations of Human Rights Abuses by the Turkish Military and the Situation in Cyprus."

These reports trouble us deeply. We have frequently cautioned the Turkish government to exercise care that its legitimate military operations avoid targeting civilians and non-combatants. We have made it clear that, in accordance with both the Foreign Assistance and Arms Export Control Acts, human rights considerations will continue to be very carefully weighed in considering whether or not to approve transfers and sales of military equipment.

With regard to death squad activities in the southeast, as we stated in our report last June, we have found reports of government involvement in these incidents to be credible. Others have also been involved. In this regard, a number of Turkish "Hizbullah" terrorists are now on trial for alleged involvement in "mystery killings." According to Turkey's prestigious Human Rights Foundation, these sorts of killings were down sharply in 1995.

We have told the Turks repeatedly that we do not believe a solely military solution will end the problems in the southeast. We urge them to explore political and social solutions which are more likely to succeed over time. These should include fully equal rights—among them cultural and linguistic rights—for all of Turkey's citizens including the Kurds. We have been encouraged by incremental actions toward granting the Kurds such rights. For example, Turkey's High Court of Appeals ruled in October that Kurdish former members of Parliament had not committed crimes when they took their oaths in the Kurdish language, wore Kurdish colors, and stated that Turkish was a foreign language for them. The Appeals Court's decision on these matters, which are very sensitive and emotional in Turkey, may send an important signal to the lower courts and may help expand Kurdish rights.

We believe it is important for those individuals who have been displaced to be compensated for their losses and to be able to return to their homes without fear. If the security situation prevents their return, it is important for the villagers to be compensated and resettled elsewhere. Like you, we are disturbed by Turkey's failure to date to adequately provide for the displaced. We will encourage the new Turkish government to do so.

In the long run, an improved dialog between the government and Kurdish representatives is needed to bring a lasting solution to the southeast. It is important that those who purport to speak for the Kurds do so sincerely and constructively. In this context, you asked whether former DEP members of the Turkish Parliament who were stripped of their immunities and fled to Europe could speak for the Kurds. Unfortunately, some of them associated the "Kurdistan Parliament in Exile" (KPIE), which is financed and controlled by the PKK. We cannot, therefore, advocate negotiations with the so-called KPIE.

There are legitimate interlocutors with whom the government could discuss Kurdish concerns. Although the Pro-Kurdish People's Democracy Party (HADEP) fell substantially short of obtaining the ten percent of the national vote required to take seats in the Turkish Grand National Assembly, the party campaigned well and carried a large number of votes in the southeast. In addition, other parties, politicians, academicians, businesspeople, and journalists also raised Kurdish concerns during the recent election campaign.

These developments are positive, and there are other signs that our active engagement with the Turks on human rights issues are meeting with success. The constitutional amendments enacted this past summer broadened political participation in several ways, including by enfranchising voters over eighteen and those residing outside of Turkey. There is also a move to devolve more authority from the central government to the local authorities. And, on October 27, the Turkish government—with encouragement from the U.S. and Europe—amended Article 8 of the Anti-Terror Law, which had been used to constrain freedom of expression substantially. As a result of this revision, over 130 people were released from prison and many pending cases are being dropped.

U.S. officials will continue to monitor closely human rights developments in Turkey. Our observations on Turkish human rights are the result of a constant, energetic effort by our Embassy and others in our government to stay informed. Our officials meet regularly with elected officials in the Turkish Administration and Parliament. We also speak frequently with critics of the government—including Turkish and international NGOs, bar and medical associations, lawyers, and other human rights activists. U.S. officials travel to the Southeast periodically where they see government officials and the affected parties.

We will also continue to encourage change by supporting those who are committed to human rights and democratic reforms, including Turkish NGOs. This is a long-term effort that will require continued engagement. The important point to keep in the forefront is that the real impetus behind democratic change in Turkey must come from Turkish citizens themselves. Our objective must be to give them all the constructive help we can.

I hope this information is useful. If I can be of further assistance, please do not hesitate to contact me.

Sincerely,

WENDY R. SHERMAN,
Assistant Secretary,
Legislative Affairs.

COMMITTEE ON INTERNATIONAL RELATIONS, HOUSE OF REPRESENTATIVES,
Washington, September 8, 1995.

Hon. WARREN CHRISTOPHER,
Secretary of State, Department of State,
Washington, DC.

DEAR MR. SECRETARY: Thank you for your reply of August 15th to my letter of June 29th concerning the use and possible misuse of U.S.-origin military equipment by Turkey. I wanted to follow-up that correspondence with two general lines of questioning.

First, I continue to have deep concerns about the use of U.S.-supplied military equipment in Southeast Turkey and about the reports of the misuse of that equipment, the wholesale destruction of villages, and the indiscriminate firing on civilian populations. Such abuses can erode support for Turkey in the Congress.

In your response to my letter, you indicated that internal security, along with self-defense is recognized as an acceptable use of U.S.-supplied defense articles but that the United States is troubled about reports that a large number of civilians have been killed in Turkish government counter-insurgency operations against the PKK. Questions remain:

What precisely are you doing about these reports?

Is it the U.S. policy, for example, to tell the Turks when we see reports of the destruction of villages or the killing of civilians, that we do not like it and cannot tolerate such abuses in the use of U.S.-supplied equipment?

What is the U.S. strategy to insure that such practices end?

Second, I have further questions regarding a related aspect of U.S. policy toward Turkey—resolution of the Kurdish issue in southeast Turkey.

There is considerable sympathy in Congress for the plight of the Kurdish population in Turkey, although none for terrorist acts by the Kurdish Worker's Party (PKK). I do not know of any Member support for Kurdish separatism or the break up of Turkey, but there is strong support for full equality of rights, including cultural and linguistic rights, for all Turkish citizens, including the Kurds. Members are troubled by the Turkish government's dominant reliance on force to put down the insurrection in the southeast, and would like to see the United States take a more active role in promoting negotiations among a broad base of Turkish citizens to end the violence.

UNITED STATES—ORIGIN MILITARY EQUIPMENT IN TURKEY

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 27, 1996

Mr. HAMILTON. Mr. Speaker, on September 8, 1995, I wrote to Secretary of State Christopher, asking several questions about the use and possible misuse of United States-origin military equipment by Turkey. This letter was a followup to an exchange of letters on the same issue earlier in the year, which I inserted in the RECORD at that time.

I have now received a response from the State Department to my September letter, which sets out the administration's position on the human rights situation in Turkey and its relationship to the issue of U.S.-supplied military equipment in the country.

Since I believe that other Members will find the administration's views informative and useful in formulating their own approach to this important issue, I would like to insert both my letter and the administration's response in the RECORD.

DEPARTMENT OF STATE,
Washington, February 29, 1996.

Hon. LEE HAMILTON,
U.S. House of Representatives.

DEAR MR. HAMILTON: This is a follow-up reply to your letter of September 8, 1995, to Secretary Christopher about human rights in Turkey. As stated in our November 1, 1995 interim response, you raised a number of serious questions in your letter. Thank you for your understanding in allowing us time to prepare this reply.

In your letter, you state that human rights abuses in Turkey are a matter of real concern to the U.S. Congress. We appreciate your interest and that of your colleagues in these issues. Congressional hearings, reports, and statements are a valuable way for the U.S. government to indicate concern about human rights in Turkey.

As we consider how best to pursue our objectives in Turkey, it is important to understand just what Turkey is up against. The Kurdistan Workers' Party (PKK) has stated that its primary goal is to create a separate Kurdish state in part of what is now Turkey. In the course of its operations, the PKK has frequently targeted Turkish—civilians. It has not hesitated to attack Western—including American—interests.

The Turkish government has the right to defend itself militarily from this terrorist threat. The Turkish military has said it seeks to distinguish between PKK members and ordinary Kurdish citizens in its operations. We remain concerned, nevertheless, about the manner in which some operations in the southeast have been conducted. As we have documented in our annual human rights reports and in the special report we submitted to Congress last June on the situation in the southeast, these operations have resulted in civilian deaths, village evacuations and burnings.

You ask what the U.S. is doing about information that U.S.-supplied defense articles may have been used by Turkey's military against civilians during the course of operations against the PKK. We discussed those issues at length in our June "Report on Allegations of Human Rights Abuses by the Turkish Military and the Situation in Cyprus."

These reports trouble us deeply. We have frequently cautioned the Turkish government to exercise care that its legitimate military operations avoid targeting civilians and non-combatants. We have made it clear that, in accordance with both the Foreign Assistance and Arms Export Control Acts, human rights considerations will continue to be very carefully weighed in considering whether or not to approve transfers and sales of military equipment.

With regard to death squad activities in the southeast, as we stated in our report last June, we have found reports of government involvement in these incidents to be credible. Others have also been involved. In this regard, a number of Turkish "Hizbullah" terrorists are now on trial for alleged involvement in "mystery killings." According to Turkey's prestigious Human Rights Foundation, these sorts of killings were down sharply in 1995.

We have told the Turks repeatedly that we do not believe a solely military solution will end the problems in the southeast. We urge them to explore political and social solutions which are more likely to succeed over time. These should include fully equal rights—among them cultural and linguistic rights—for all of Turkey's citizens including the Kurds. We have been encouraged by incremental actions toward granting the Kurds such rights. For example, Turkey's High Court of Appeals ruled in October that Kurdish former members of Parliament had not committed crimes when they took their oaths in the Kurdish language, wore Kurdish colors, and stated that Turkish was a foreign language for them. The Appeals Court's decision on these matters, which are very sensitive and emotional in Turkey, may send an important signal to the lower courts and may help expand Kurdish rights.

We believe it is important for those individuals who have been displaced to be compensated for their losses and to be able to return to their homes without fear. If the security situation prevents their return, it is important for the villagers to be compensated and resettled elsewhere. Like you, we are disturbed by Turkey's failure to date to adequately provide for the displaced. We will encourage the new Turkish government to do so.

In the long run, an improved dialog between the government and Kurdish representatives is needed to bring a lasting solution to the southeast. It is important that those who purport to speak for the Kurds do so sincerely and constructively. In this context, you asked whether former DEP members of the Turkish Parliament who were stripped of their immunities and fled to Europe could speak for the Kurds. Unfortunately, some of them associated the "Kurds. Unfortunately, some of them associated the "Kurdistan Parliament in Exile" (KPIE), which is financadvocate negotiations with the so-called KPIE.

There are legitimate interlocutors with whom the government could discuss Kurdish concerns. Although the Pro-Kurdish People's Democracy Party (HADEP) fell substantially short of obtaining the ten percent of the national vote required to take seats in the Turkish Grand National Assembly, the party campaigned well and carried a large number of votes in the southeast. In addition, other parties, politicians, academicians, businesspeople, and journalists also raised Kurdish concerns during the recent election campaign.

These developments are positive, and there are other signs that our active engagement with the Turks on human rights issues are meeting with success. The constitutional amendments enacted this past summer broadened political participation in several ways, including by enfranchising voters over eighteen and those residing outside of Turkey. There is also a move to devolve more authority from the central government to the local authorities. And, on October 27, the Turkish government—with encouragement from the U.S. and Europe—amended Article 8 of the Anti-Terror Law, which had been used to constrain freedom of expression substantially. As a result of this revision, over 130 people were released from prison and many pending cases are being dropped.

U.S. officials will continue to monitor closely human rights developments in Turkey. Our observations on Turkish human rights are the result of a constant, energetic effort by our Embassy and others in our government to stay informed. Our officials meet regularly with elected officials in the Turkish Administration and Parliament. We also speak frequently with critics of the government—including Turkish and international NGOs, bar and medical associations, lawyers, and other human rights activists. U.S. officials travel to the Southeast periodically where they see government officials and the affected parties.

We will also continue to encourage change by supporting those who are committed to human rights and democratic reforms, including Turkish NGOs. This is a long-term effort that will require continued engagement. The important point to keep in the

forefront is that the real impetus behind democratic change in Turkey must come from Turkish citizens themselves. Our objective must be to give them all the constructive help we can.

I hope this information is useful. If I can be of further assistance, please do not hesitate to contact me.

Sincerely,

WENDY R. SHERMAN,
Assistant Secretary,
Legislative Affairs.

COMMITTEE ON INTERNATIONAL RELATIONS, HOUSE OF REPRESENTATIVES,
Washington, September 8, 1995.

Hon. WARREN CHRISTOPHER,
Secretary of State, Department of State,
Washington, DC.

DEAR MR. SECRETARY: Thank you for your reply of August 15th to my letter of June 29th concerning the use and possible misuse of U.S.-origin military equipment by Turkey. I wanted to follow-up that correspondence with two general lines of questioning.

First, I continue to have deep concerns about the use of U.S.-supplied military equipment in Southeast Turkey and about the reports of the misuse of that equipment, the wholesale destruction of villages, and the indiscriminate firing on civilian populations. Such abuses can erode support for Turkey in the Congress.

In your response to my letter, you indicated that internal security, along with self-defense is recognized as an acceptable use of U.S.-supplied defense articles but that the United States is troubled about reports that a large number of civilians have been killed in Turkish government counter-insurgency operations against the PKK. Questions remain:

What precisely are you doing about these reports?

Is it the U.S. policy, for example, to tell the Turks when we see reports of the destruction of villages or the killing of civilians, that we do not like it and cannot tolerate such abuses in the use of U.S.-supplied equipment?

What is the U.S. strategy to insure that such practices end?

Second, I have further questions regarding a related aspect of U.S. policy toward Turkey—resolution of the Kurdish issue in southeast Turkey.

There is considerable sympathy in Congress for the plight of the Kurdish population in Turkey, although none for terrorist acts by the Kurdish Worker's Party (PKK). I do not know of any Member support for Kurdish separatism or the break up of Turkey, but there is strong support for full equality of rights, including cultural and linguistic rights, for all Turkish citizens, including the Kurds. Members are troubled by the Turkish government's dominant reliance on force to put down the insurrection in the southeast, and would like to see the United States take a more active role in promoting negotiations among a broad base of Turkish citizens to end the violence.

I am concerned that if the present situation persists, the United States will have difficulty sustaining its Turkey policy. An amendment this summer to the Foreign Operations Appropriations bill in the House which limits aid to Turkey because of human rights concerns illustrates some of the problems that arise if these issues are not adequately addressed.

I understand that it is U.S. policy to support Turkey's territorial integrity and its legitimate right to combat terrorism, including terrorist acts by the PKK. I also understand that the U.S. supports democratic reform in Turkey as an integral part of the effort to improve human rights conditions and to undercut support for PKK violence. In this context, I would like to pose the following questions:

What is the United States doing to push efforts in Turkey to amend Article 8 of the antiterrorism law?

What are the implications for U.S. policy and for the situation in the Southeast if efforts to amend Article 8 fail or are abandoned?

What is the United States doing to promote efforts to provide Kurds with equal rights in Turkey? Is it United States policy to support the legitimate political, cultural and linguistic rights of Turkish citizens of the Southeast of Kurdish origin? How do you react to recent comments by senior Turkish officials that the extension of such rights are not a priority of the Turkish government?

In our human rights dialogue, is the U.S. pressing the Turkish government and General Staff to abandon tactics that target the Kurdish civilian population, such as forced evacuation and burning of Kurdish villages?

What is United States policy doing to address allegations that the Turkish government is either sponsoring or tolerating the activities of death squads reported to have killed hundreds of Kurdish activists in the southeast?

What is United States policy on meeting and dealing with the elected representatives of Turkish citizens in the Southeast regardless of whether they are able to sit in the National Assembly at this time? Does the United States support negotiations between several exiled Turkish Kurdish parliamentarians and the Turkish government? With whom do you think the Turkish Government should negotiate?

What kind of political engagement between the Turkish government and Kurdish nationalists does the United States seek to promote in order to encourage Turkey to move away from reliance on a solely military solution?

I look forward to your reply.

With best wishes,

Sincerely,

LEE H. HAMILTON,
Ranking Democratic Member.

THE ENTERPRISE RESOURCE BANK ACT OF 1996

HON. RICHARD H. BAKER

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 27, 1996

Mr. BAKER of Louisiana. Mr. Speaker, today I am introducing comphensive legislation to provide the Federal Home Loan Bank System [FHLB] the tools it needs to expand on the significant contributions it has already made to the Nation's housing finance delivery system. It is especially fitting today, as we debate the role of the Federal Government in providing and stimulating economic development in the 104th Congress, to work with an existing private entity to deliver a much-needed and public purpose.

The Federal Home Loan Bank System was established in 1932 primarily to provide a source of intermediate- and long-term credit for savings institutions to finance long-term residential mortgages and to provide a source of liquidity loans for such institutions, neither of which was readily available for savings institutions at that time the Federal Home Loan Bank System was created.

In recent years, the System's membership has expanded to include other depository institutions that are significant housing lenders.

The segment of savings institutions and other depository institutions that are specialized mortgage lenders has decreased in size and market share and may continue to decrease. The establishment of the Federal National Mortgage Association [Fannie Mae], the Federal Home Loan Mortgage Corporation [Freddie Mac], and the Government National Mortgage Association [Ginnie Mae], and the subsequent development of an extensive private secondary market for residential mortgages has challenged the Federal Home Loan Bank System as a source of intermediate- and long-term credit to support primary residential mortgage lenders.

For most depository institutions, residential mortgage lending has been incorporated into the product mix of community banking that typically provides a range of mortgage, consumer, and commercial loans in their communities.

Community banks, particularly those in rural markets, have a difficult time funding their intermediate- and long-term assets held in portfolio and accessing capital markets. For example rural nonfarm businesses tend to rely heavily on community banks as their primary lender. Like the savings association in the 1930's these rural community banks draw most of their funds from local deposits. Longer term credit for many borrowers in rural areas may therefore be difficult to obtain. In short, the economy of rural America may benefit from increased completion if rural community banks are provided enhanced access to capital markets.

Access to liquidity through the FHLB System benefits well-managed, adequately capitalized community banks. For these banks, term advances reduce interest rate risk. In addition, the ability of a community bank to obtain advances to offset deposit decreases or to temporarily fund portfolios during an increase in loan demand reduces the bank's overall cost of operation and allows the institution to better serve their markets and community.

Used prudently, the FHLB System is an integral tool to assist properly regulated, well-capitalized community banks, particularly those who lend in rural areas and underserved neighborhoods, a more stable funding resource for intermediate- and long-term assets.

With that in mind, I have introduced this legislation today to enhance the utility of the Federal Home Loan Bank System. I want the mission of the System to remain strong in the ability to help Americans realize the dream of home ownership, but equally as important: I want the System to enrich the communities in which Americans build their dreams.

America is the world capital of free enterprise. Free enterprise is the foundation on which the American dream is built, and it is the engine by which American ingenuity is

driven. My legislation will help nurture American free enterprise. That is why I call this bill the Enterprise Resource Bank Act.

The Enterprise Resource Bank Act will strengthen the System's mission to promote residential mortgage lending—including mortgages on housing for low- and moderate-income families. Enterprise Resource Banks will facilitate community and economic development lending, including rural economic development lending. And Enterprise Resource Banks will facilitate this lending safely and soundly, through a program of collateralized advances and other financial services that provide long-term funding, liquidity, and interest-rate risk management to its stockholders and certain nonmember mortgagees.

Since 1932, the Bank System has served as a link between the capital markets and local housing lenders, quietly making more money available for housing loans at better rates for Americans. Today the Federal Home Loan Banks' 5,700 member financial institutions provide for one out of every four mortgage loans outstanding in this country, including many loans that would not qualify for funding under secondary market criteria. The bank system accomplishes this without a penny of taxpayer money through an exemplary partnership between private capital and public purpose.

More than 3,500 of the bank system's current members are commercial banks, credit unions, and insurance companies that became eligible for bank membership in 1989. They demonstrate the market's value of the bank system by investing in the capital stock of the regional home loan banks. These institutions have recognized the advantages of access to the bank system's credit programs and have responded to their loan communities' needs for mortgage lending. As the financial marketplace grows larger and more complex, I envision the bank system as a necessary vehicle for serving community lending needs especially in rural and inner-city areas.

The Federal Home Loan Bank System serves an active and successful role in financing community lending and affordable housing through the Affordable Housing Program [AHP] and the Community Investment Program [CIP]. The AHP Program provides low-cost funds for member institutions to finance affordable housing, and the CIP Program supports loans made by members to community-based organizations involved in commercial and economic development activities to benefit low-income areas.

The Federal Home Loan Banks' loans—advances—to their members have increased steadily since 1992 to the current level of more than $122 billion. Since 1990, the banks have made $7.1 billion in targeted Community Investment Program advances to finance housing units for low- and moderate-income families and economic development projects. In addition, the banks have contributed more than $350 million through their Affordable Housing Programs to projects that facilitate housing for low- and moderate-income families.

While these figures are impressive, the Federal Home Loan Bank System needs some fine tuning to enable it to continue to meet the needs of all its members in a rapidly changing financial marketplace. The Enterprise Resource Bank Act of 1996 recognizes the changes that have occurred in home lending markets in recent years, which is reflected in the present composition of the bank system's membership. Enacting this legislation will enhance the attractiveness of the banks as a source of funds for housing and related community development lending, and will encourage the banks to maintain their well-recognized financial strength.

Specifically, my legislation—Targets the bank system's mission in statute to emphasize the System's important role of supporting our Nation's housing finance system and its potential role of supporting economic development by providing long-term credit and liquidity to housing lenders;

Targets the bank system's mission in statute to emphasize the System's important role of supporting our Nation's housing finance system and its potential role of supporting economic development by providing long-term credit and liquidity to housing lenders;

Establishes voluntary membership and equal terms of access to the System for all institutions eligible to become bank system members, and eliminates artificial restrictions on the banks' lending to member institutions based on their qualified thrift lender status;

Equalizes and rationalizes bank members' capital stock purchase requirements, preserving the cooperative structure that has served the System well since it creation in 1932;

Separates regulation and corporate governance of the banks that reflect their low level of risk while ensuring the banks can meet their obligations; and

Modifies the methodology for allocating the bank system's annual $300 million REFCORP obligation so that the individual banks' economic incentives are consistent with their statutory mission to support primary lenders in their communities.

Taken together, these interrelated provisions address the major issues identified in a recent series of studies of the bank system that Congress required from the Federal Housing Finance Board [FHFB], the Congressional Budget Office [CBO], the General Accounting Office [GAO], the Department of Housing and Urban Development [HUD], and a Stockholder Study Committee comprised of 24 representatives of Federal Home Loan Bank stockholder institutions from across the country.

The Enterprise Resource Banks Act will make the banks more profitable by enabling them to serve a larger universe of depository institution lenders more efficiently, and it will return control of the banks to their regional boards of directors who are in the best position to determine the needs of their local markets. At the same time, it will provide for the safety and soundness oversight necessary to ensure that this large, sophisticated financial enterprise maintains its financial integrity and continues to meet its obligations.

I first offered comprehensive legislation to modernize the bank system in 1992. The legislation is the culmination of efforts over the last 3 years to address in a balanced way the concerns of the banks' member institutions, community and housing groups, and various Government agencies. I look forward to passage of this important legislation to modernize an institution that works to improve the availability of housing finance and the opportunity of credit for all Americans, particularly those who are underserved.

GREEN EYES ARE SMILING IN CENTRAL NEW YORK

HON. JAMES T. WALSH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 27, 1996

Mr. WALSH. Mr. Speaker, I am proud today to bring to the attention of my colleagues the environmental work of some high school students in central New York.

A group from Marcellus High School in Onondaga County has been chosen the winners of the Operation Green Eyes competition, an Environmental Protection Agency and MCI Foundation contest with an award of $10,000. Their project was based on a plan to use land mined by a local concrete company for a network of educational nature trails.

Schools from across the United States were challenged to complete an environmental community action project to see their community through Green Eyes and make a positive difference.

Projects were rated on innovation and originality, impact on the community, technical merit, and how well the students utilized the resources which were available to them.

On February 22 and 23 this year, three judges from the National Science Teachers Association met in Washington to judge the entries. They unanimously picked the Marcellus High School project to be the winner.

I want to add my congratulations to the students for this achievement. using their awareness of the environment as well as their critical problem-solving skills to make such a positive contribution to our community is an outstanding accomplishment.

I want to also publicly recognize with congratulations the advisers from the school, the MCI Foundation for its award sponsorship, the W.F. Saunders Co. for its cooperation, and last but not least Sylvester Stallone, who will participate in an award ceremony at the school.

WOMEN AND ALCOHOL RESEARCH EQUITY ACT OF 1996

HON. CONSTANCE A. MORELLA

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 27, 1996

Mrs. MORELLA. Mr. Speaker, I rise to introduce the Women and Alcohol Research Equity Act of 1996. This legislation will enable the National Institute on Alcohol Abuse and Alcoholism [NIAAA] to increase their research on women and alcoholism.

Over the last few years, NIAAA has made great strides in incorporating women into their research, and I applaud them for their progress. In fiscal year 1995, NIAAA spent 23 percent of their budget on research on alcohol abuse and alcoholism among women. This

represents a 69-percent increase over their fiscal year 1992 spending. However, the differences in the effects of alcohol and alcoholism on men and women necessitate further research on women and alcoholism.

The impact of alcoholism on women and men differs greatly. Women are more likely to use nontraditional health care systems for alcohol-related problems. Studies have shown that the development of consequences associated with heavy drinking may be accelerated in women. The death rate of female alcoholics is 50 to 100 percent higher than for male alcoholics. Heavy drinking contributes to menstrual disorders, fertility problems, and premature menopause, and alcohol use by pregnant women is the leading known cause of mental retardation in newborns. FAS strikes between 3,600 to 10,000 babies a year, and a Centers for Disease Control study indicates that the percentage of babies born with alcohol-related health problems increased sixfold between 1979 and 1993. It is critical that we bolster NIAAA's research on women and alcohol, and this legislation will help accomplish this.

This legislation recognizes the progress NIAAA has made. It instructs the NIAAA to maintain their current spending on women and alcoholism within their existing budget. It would also instruct House authorizers to add an additional $25 million in spending for NIAAA on research on alcohol abuse and alcoholism among women. Thus, this additional money would not subtract money from NIAAA's overall budget for women and alcohol, but instead add new funds for this critical research.

Clearly, alcohol abuse among women is a very serious problem with grave consequences. This legislation will include women in NIAAA's research so that we may better understand the effects of alcoholism particular to women and develop solutions that will work for women.

TRIBUTE TO THE LIBERTY TRIBUNE

HON. PAT DANNER

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 27, 1996

Ms. DANNER. Mr. Speaker, since the Liberty Tribune's initial publication on April 4, 1846, and through the Civil War, both World Wars, America's voyages into space and countless other events, great and small, the newspaper has faithfully reported the news of the day. In fact, it is my understanding that the Liberty Tribune is the oldest continually published paper west of the Mississippi. This is truly an impressive accomplishment.

But longevity matters little if it is not accompanied by substance and style. The paper has more than passed muster on all three accounts, and the city of Liberty is a better place today because of it.

Community newspapers such as the Liberty Tribune serve as an important meeting place for generations of people from all walks of life. They provide information, chronicle the rough times, tout the good ones, and serve as a community's conscience when needed.

This is particularly true for our young people, who see that their successes in the classroom and on the ballfields make the local paper. They read about the important contributions of local civic leaders and witness how the power of well-reasoned opinions—on matters from local school district bond issues to international affairs—can affect government.

I know that the Liberty Tribune reports the positive happenings in the community as well as the bad news—true balanced reporting. This should not be surprising as the paper has had plenty of experience.

For instance, it is interesting to note that the Liberty Tribune started publication while James Polk was President. Some of the paper's first articles were about the Mexican-American War, in particular the story of Col. Alexander Donipan and his troops from Clay County who fought in the Battle of Bracito. Year later, the Liberty Tribune covered the Civil War and Jesse James. But to put matters into perspective, all of this is really little more than a quick glance back into history full of so much more news and reporting by the Liberty Tribune.

William Allen White, a towering figure in midwestern journalism for decades, believed that a hometown newspaper should serve a dual role—reporting the news and serving as a booster for the community. He understood that the true community newspaper works diligently not only to deliver the news but also to improve the community.

When the editor of a metropolitan paper scoffed at Mr. White and his Emporia, KS, Gazette, the respected small town editor fired back a timeless response.

"Know this and know it well," White said. "If you would take the clay from your eyes and read the little paper as it is written you would find all of God's beautiful sorrowing, struggling, aspiring world in it—and what you saw would make you touch the paper with reverent hands."

Mr. Speaker, the Liberty Tribune can take pride in being an important part of the strong tradition of balanced, community-minded reporting of which Mr. White spoke so eloquently.

TRIBUTE TO VIRGIL FROST ON HIS RETIREMENT

HON. PAUL E. GILLMOR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 27, 1996

Mr. GILLMOR. Mr. Speaker, I rise today to pay tribute to an outstanding public servant in northwest Ohio. On December 31, 1995, Virgil Frost retired from his position as a bailiff/probation officer for Bowling Green Municipal Court.

Virgil Frost was born in Athens, OH, and graduated from Athens High School. He received his undergraduate degree from Ohio University and completed his graduate work at Bowling Green State University. He is a member of the Masonic Lodge, the Ohio Correctional and Court Services, the Kiwanis, and the National Criminal Justice Honor Society.

Virgil can look back on his career with great pride. In all of his duties, he has demonstrated a commitment to hard work and honest public service. During the course of his service, Virgil has held positions as a social worker with the Maumee Youth Camp and as the director of the Wood County Adult Probation Department. Because of his extensive experience, he has become a recognized expert in many areas of law enforcement and has received numerous performance awards for his work. Through his caring and dedicated efforts, he has literally improved the lives of a tremendous number of Wood County residents.

Americans would not be able to enjoy the blessings of our country without the tireless dedication of those who have the talent and willingness to work for the community. It is for this reason we owe a special debt of gratitude to people like Virgil, who have done an outstanding job for northwest Ohio. While he may be leaving his official capacity, I know he will continue to be actively involved in those causes dear to him.

I ask my colleagues to join me in paying a special tribute to Virgil, his wife, Patricia, and their sons, Mike, Mark, and Mathew, and wish them all the best in the years ahead.

FAIRNESS TO MINORITY WOMENS HEALTH ACT; WOMENS HEALTH EQUITY ACT

HON. NYDIA M. VELÁZQUEZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 27, 1996

Ms. VELÁZQUEZ. Mr. Speaker, domestic violence is an epidemic in our country. The statistics on family violence are staggering. Each year 4 million women are severely assaulted by their current or former partners. In fact, domestic violence is the leading cause of injury to women aged 15 to 44.

This national tragedy affects women from all social economic groups. However, poor immigrant women with children face unique challenges and bureaucratic hurdles. Under current law, legal residents who are in abusive relationships are not entitled to AFDC benefits or food stamps if they flee their homes to escape domestic violence. As a result, many women are forced to choose between feeding their children or being battered.

The current system has failed to provide protection and equity for battered immigrant women. This unfortunate situation had led me to introduce the Fairness to Minority Womens Health Act as part of the womens caucus' Womens Health Eqauity Act. My legislation would ensure that AFDC benefits and food stamps are granted to women and their children who escape domestic violent situations.

At times it is difficult for battered women to talk about domestic violence. This is especially true for language minority women who may feel intimated by counselors who do not speak their language. My bill provides bilingual family planning and counseling services.

This legislation also calls for a study on violence in the lives of Latino women and their children. Gathering factual data on the causes and effects must be a priority if the true extent of the problem of violence is to be addressed.

Every women should be able to escape domestic violence. I urge my colleagues on both

sides of the aisle to join me in sponsoring this historic piece of legislation. We must work to ensure that all women seeking safety for themselves and their children get the help they desperately need. It's an investment worth making.

TRIBUTE TO PRESIDENT GROVER CLEVELAND

HON. WILLIAM J. MARTINI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 27, 1996

Mr. MARTINI. Mr. Speaker, I rise today to pay tribute to President Grover Cleveland as we celebrate this year the 159th anniversary of his birth in the great State of New Jersey.

One of New Jersey's most famous sons, Grover Cleveland entered the public arena with plain, honest talk and unwavering, uncompromising principles. His forthrightness in telling the truth was overwhelmingly refreshing for his time. President Cleveland's blunt political style and sincere dedication to public service enabled him to enchant the American people.

During his first year in office, President Cleveland, still a bachelor, worked 18-hour days to prove to the American public that they had elected the right man for the job. In an era of low expectations for the Nation's Chief Executive, President Cleveland labored tirelessly to rejuvenate the prestige, honor, and authority of the Presidency.

After his failed attempt for reelection, Grover Cleveland never lost his zeal for reform or his resolve to succeed. Amazingly, he fully expected to be President once again; a feat in American politics equal to coming back from the dead. However, on the last day of President Cleveland's first term, his new bride, Frances, remarked to a White House staffer to take good care of the furniture because they planned to return in just 4 years from today. Indeed, 4 years later, President Grover Cleveland became the only President in American history to win a second term after a 4-year political hiatus.

Discipline, work, courage, perseverance, and honesty—these are the attributes associated with Grover Cleveland's legacy. I am proud to give praise and honor to President Cleveland's memory and his selfless service to our Nation.

AIDS NOW THIRD LEADING CAUSE OF DEATH IN YOUNG WOMEN

HON. CONSTANCE A. MORELLA

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 27, 1996

Mrs. MORELLA. Mr. Speaker, I am reintroducing legislation today to address the need for increased research on HIV–AIDS in women and more targeted HIV–AIDS prevention and outreach efforts for women. Senator PAUL SIMON will be reintroducing the bills in the Senate in the next several weeks.

AIDS is now the third leading cause of death among women who are 25–44 years of age, according to the Centers for Disease Control and Prevention. The two largest increases in 1994, the year covered by the latest statistics, were a 30-percent increase among white women and a 28-percent increase among African-American women. AIDS was the cause of death for at least one out of every five young African-American women.

Women of color have been most severely affected; while African-American women and Latinas account for only 21 percent of women in the United States, they make up 54 percent and 20 percent of cumulative AIDS cases among women, respectively.

Since I first introduced legislation addressing HIV–AIDS and women in 1990, we have made progress on these issues. The National Institute on Allergy and Infectious Diseases [NIAID] initiated the women's natural history study, the women's interagency HIV study, and has worked to increase the number of women in clinical trials. Both NIAID and the National Institute of Child Health and Human Development [NICHD] have increased the resources devoted to topical microbicide research. I commend the NIAID and NICHD for their efforts, and I urge the research community to continue the momentum in these directions. This year's research bill reflects the progress that has been made, and provides for additional funding to further these gains.

A major focus of our research bill continues to be funding for research on topical microbicides and barrier methods of protection from sexually transmitted diseases [STD's], including HIV, that women can use with or without their sexual partner's cooperation or knowledge. The development of a topical microbicide—a compound capable of preventing the transmission of HIV and a range of STD's—is critically needed and would revolutionize our U.S. and global HIV and STD prevention programs.

Current HIV prevention methods rely on the cooperation of male partners. Many women lack the power within relationships to insist on condom use, as well as the resources to leave situations that place them at risk. It is critical that we acknowledge and respond to the issues of low self-esteem, economic dependency, fear of domestic violence, and other factors which are barriers to empowering women to negotiate safer sex practices.

The research bill also includes additional funding to continue the women's interagency HIV study, the ongoing study of HIV progression in women, and to conduct other research to determine the impact of potential risk factors for HIV transmission to women, such as infection with other STD's, the use of various contraceptive methods, and the use of vaginal products.

Other provisions include increased funding for support services, such as child care, in order to further the efforts by NIAID to increase enrollment of women in clinical trials. The bill also includes funding to increase data on women through gynecological examinations prior to enrollment in clinical trials and during the course of the trials. It is critical that the full range of questions important to understanding HIV in women are answered.

In regard to prevention, progress has also been made with the implementation of the CDC HIV community planning process. Through this program, State and local health departments work with local community-based organizations, community leaders, people living with HIV–AIDS, and groups at risk for HIV, to develop prevention programs for their own communities. However, despite the new statistics on HIV, most women still do not consider themselves to be at risk.

The prevention bill provides additional funding to family planning providers, community health centers, and other providers who already serve low-income women, to provide community-based HIV prevention programs. Many of them already provide unfunded prevention programs; this funding would allow them to expand their services and provide outreach to women who are not currently using family planning clinics or other community health services for women.

The bill also provides funding for referrals, including treatment for HIV and substance abuse, mental health services, pregnancy and childbirth, pediatric care, housing services, public assistance, job training, child care, respite care, and domestic violence.

Mr. Speaker, we have made progress in addressing the needs of women in the HIV epidemic, but we have far more to do. We are running out of time for a generation of young men—we cannot afford to wait. I urge my colleagues to join me in cosponsoring this legislation.

PERSONAL EXPLANATION

HON. JOHN N. HOSTETTLER

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 27, 1996

Mr. HOSTETTLER. Mr. Speaker, due to a snow emergency in my district that began early March 19, 1996, I was unable to return to Washington, DC, until late evening on March 20, 1996. As a result of this unforeseen delay, I missed a number of rollcall votes during consideration of H.R. 2202, the Immigration in the National Interest Act. Had I been here for these votes, I would have voted as follows:

On roll No. 68, I would have voted "yea."

On roll No. 71, Beilenson, I would have voted "no."

On roll No. 72, McCollum, I would have voted "no."

On roll No. 73, Bryant, I would have voted "yea."

On roll No. 74, Velázquez, I would have voted "no."

On roll No. 75, Gallegly, I would have voted "yea."

On roll No. 76, Chabot, I would have voted "yea."

On roll No. 77, Gallegly, I would have voted "no."

On roll No. 78, Canady, I would have voted "yea."

On roll No. 79, Dreier, I would have voted "yea."

GENETIC INFORMATION AND HEALTH INSURANCE REFORM

HON. LOUISE McINTOSH SLAUGHTER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 27, 1996

Ms. SLAUGHTER. Mr. Speaker, health insurance reform is coming to the House floor tomorrow. An important piece of that legislation deals with genetic information and insurance discrimination. Last December, I introduced H.R. 2748, the Genetic Information Nondiscrimination in Health Insurance Act—a bill to prevent the potentially devastating consequences of discrimination based on genetic information.

I am very pleased to learn that both the Republican version of health insurance reform and the Democratic substitute that will be introduced tomorrow contain some of the protections I introduced in my bill last fall.

While the provision in the legislation coming to the floor tomorrow is not as comprehensive as those outlined in my bill, it represents a very important first step in providing protections for people with predisposition to genetic disease.

Let me tell you a little bit about my bill and why it is so important. As chair of the Women's Health Task Force, I closely followed the reports last year indicating that increased funding for breast cancer research had resulted in the discovery of the BRCAI gene-link to breast cancer. While the obvious benefits of the discovery include potential lifesaving early detection and intervention, the inherent dangers of the improper use of genetic information are just becoming evident.

There is increasing concern that based on genetic information, individuals will be denied access to health care and insurance providers will require genetic screening in order to deny coverage to those who would cause a rise in group premiums.

The lessons we have learned from the past including the disastrous results of discriminating against those genetically predisposed to sickle-cell anemia. More recently, there are cases of people with a family history of breast cancer being afraid of getting tested for fear of losing access to insurance. Both these situations point to the need for comprehensive Federal regulations.

The bill I introduced last December would prevent that type of catastrophe by prohibiting insurance providers from:

First, denying or canceling health insurance coverage, or

Second, varying the terms and conditions of health insurance coverage, on the basis of genetic information.

Third, requesting or requiring an individual to disclose genetic information.

Fourth, disclosing genetic information without prior written consent.

The provisions in the health insurance reform bills to be considered on the floor tomorrow prohibit the use of genetic information as a preexisting condition. I applaud the inclusion of that aspect of my legislation in the insurance reform. I hope that my colleagues and I can continue to work together to apply the prohibitions on genetic discrimination across the board to cover all insurance policies and to address the important issue of privacy protection.

As therapies are developed to cure genetic diseases, and potentially to save lives, the women and men affected must be assured access to genetic testing and therapy without concern that they will be discriminated against. As legislators, I believe it is our responsibility to ensure that protection against genetic discrimination is guaranteed. Tomorrow we will take the first step in that direction. I invite my colleagues to join me in making the commitment to ensuring comprehensive protections against genetic discrimination.

CELEBRATING 25 YEARS OF COOPERATION

HON. JAMES A. BARCIA

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 27, 1996

Mr. BARCIA. Mr. Speaker, the strength of cooperation is the greatest asset of any entity. I want you to know about the Saginaw Valley Bean and Beet Research Farm which is flush with cooperation, and as a result is proudly celebrating its 25th anniversary of operation this year. This facility, which started operations in 1971, is one of the premier locations in the world for research into matters of concern to sugar beet and dry bean producers and processors.

Michigan Sugar Co. and Monitor Sugar Co. helped to get all of this going by recognizing the importance of ongoing research in the maintenance of a competitive edge. The Michigan Bean Shippers Association, the Michigan Bean Commission, and the Farmers and Manufacturers Beet Sugar Growers Association pushed for creation of a single research farm. Producers helped fund the research by check-off from sales of their commodities, and continue to this day. Today, this facility is a wonderful joint effort of dry bean and sugar beet processors and producers, in cooperation with Michigan State University's Agricultural Experiment Station, the MSU Extension Service, and funding provided through the Cooperate State Research, Education and Extension Service of the U.S. Department of Agriculture. This Federal support has been generously provided with the cooperation of the Subcommittee on Agriculture, Rural Development, Food and Drug Administration; and Related Agencies of the House Appropriations Committee.

It is phenomenal to me to think of the fact that 30 years ago farmers earned $60 million for dry bean crops and $23 million from sugar beet crops, with yields now having increased by about 80 percent since 1970. New varieties of dry beans have been introduced in the area to take advantage of changing consumer demands for dry bean varieties, particularly for the colored dry bean varieties that are so heavily demanded in other markets around the world. The stable prices that our consumers enjoy for sugar have been enhanced by a research program that is committed to improving yield and maintaining quality in an increasingly competitive market.

Work has been done over the years to improve the hardiness of varieties of beans and beets. Environmental concerns have been addressed by reviewing the efficacy of pesticides and herbicides as well as application practices. Planting methodology has been studied, ranging from narrow row planting efforts to increase yield per acre, to dealing with concerns created by soil compaction.

Several people deserve credit for this historic endeavor. Loren Armbruster, John Davis, Ernest Flegenheimer, Dr. Milt Erdman, Maurice Frakes, Dale Harpstead, John A. McGill, Jr., Basil McKenzie, Leyton Nelson, Grant Nichol, and Perc Reeve all deserve a major share of the credit for the creation of this facility. Former Congressman Bob Traxler led the efforts to secure Federal funding for this facility. Bob Young, Bill Bortel, Dale Kuenzli, John McGill, Greg Varner, and Dr. Don Christenson now work for the success of this facility. And support for this project continues to come from myself, Congressman CAMP, and Senator LEVIN.

Mr. Speaker, at a time when we want people to look to themselves for solutions to problems, we need to recognize the accomplishments of the Saginaw Valley Bean and Beet Research Farm. I urge you and our colleagues to join me in wishing them the happiest 25th anniversary.

IN MEMORY OF MILLARD LEE BRENT

HON. RALPH M. HALL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 27, 1996

Mr. HALL of Texas. Mr. Speaker, it is a privilege for me to pay tribute today to a legendary educator and outstanding citizen from the Fourth District of Texas—Millard Lee Brent, who died recently at the age of 83. Throughout his life Millard Brent was a prominent and respected figure in Dodd City, and he leaves behind a legacy of accomplishment that will be remembered for years to come.

A native of Dodd City, Millard Brent was born on October 22, 1912, to Ada Finley and Lee William Brent, and devoted much of his life to education. He received a bachelor's degree from Austin College in 1939, a master's degree from East Texas State University in 1951, and was an educator for 46 years. He served as superintendent of Dodd City schools from 1947 to 1962, was superintendent of Fannin County schools from 1962 to 1979, and in 1979 received the Fannin County Teacher of the Year Award. He then served on the board of directors of region 10 on State education from 1979 to 1988.

Millard also devoted much of his time in service to his community and county. He served as president of the Bonham Lions Club and president of the Fort Inglish Society. He served on the board of directors of the American Lung Association of the Dallas area, the Friends of Sam Rayburn Board, the Fannin County Fair Board, the board of the Fannin County Teachers Federal Credit Union, and the Board of Resolution, Conservation and Development. Millard was a member of the

Dodd City Masonic Lodge, past Master, 32d degree Mason, Sherman Scottish Rite, and Denison County Commandry, and was an elder of the Dodd City Church of Christ. He received the Texas Historical Commission Award from Governor Dolph Briscoe and received the Fannin County Farmer Award for Outstanding Conservation.

Millard was married to Evalyn Opal Doan, who preceded him in death. Surviving are his son, Dr. Millard Brent of Sherman; brothers, George Brent of Bonham and C.J. Brent of Lannius; sister, Madeline Veal of Dallas; and several nieces and nephews.

Mr. Speaker, Millard Brent devoted his life to the betterment of his community and to the noble cause of education. His influence was felt in every aspect of his community and county, and there is no way to measure the good that he accomplished. As we adjourn today, I join his family and many friends in paying our last respects to this outstanding individual.

PERSONAL EXPLANATION

HON. JOHN N. HOSTETTLER

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 27, 1996

Mr. HOSTETTLER. Mr. Speaker, due to a snow emergency in my district that began early March 19, 1996, I was unable to return to Washington, DC, until late evening on March 20, 1996. As a result of this unforeseen delay, I missed passage of H.R. 2937. Had I been able to be here for these votes I would have voted "yea" on roll No. 69.

TRIBUTE TO MORTON CHARLESTEIN

HON. JON D. FOX

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 27, 1996

Mr. FOX of Pennsylvania. Mr. Speaker, a chosen few among us have the privilege and strength to reach 80 years of productive life. Mr. Morton Charlestein, who marks his 80th birthday on this April 1, has been an inspiration to all who know him and a source of love and support to all who come in contact with his warm and gracious being. He is a husband of over 50 years, a father, and grandfather of five; a leader in the dental and medical products industry; and a giant of support in the philanthropic community of greater Philadelphia whose good works reach across the country and around the world.

As chairman emeritus of the Premier Dental Products Co. and former president of the Dental Manufacturers of America, Mr. Charlestein's professional life has seen the introduction to the U.S. market of many, many innovative and now commonly used essential products in the dental profession. His support for dental schools and dental education is well known.

He is also an active member on the board of Har Zion Temple in Penn Valley, PA and on the board of the Jewish Theological Seminary of America. His support for programs fostering deeper religious understanding and commitment extend not only to his financial giving but to his personal involvement in communal prayer, and in family and institutional life on a daily basis.

Along with his wife, Malvina, and daughter, Ellyn, this man of vision has taken a personal family tragedy—the death of a young son-in-law—and turned it into a commitment of eradicating the suffering caused by amyotrophic lateral sclerosis [ALS]—Lou Gehrig's disease and has helped in the formation of support groups for patients; clinics dedicated to the treatment of this disease; and research projects in leading medical institutions worldwide.

I hold up Mr. Morton Charlestein as an example of a great American, having served his country overseas in World War II, who, in his personal and business dealings knows no barrier of race, social status, religion, or gender; and whose generosity and cheerfulness bring blessing to us all. May such Americans be multiplied and granted long life and good health.

CONGRATULATIONS TO PRESIDENT LEE TENG-HUI

HON. MAURICE D. HINCHEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 27, 1996

Mr. HINCHEY. Mr. Speaker, I wish to convey my congratulations to President Lee Teng-hui of the Republic of China. In the first direct Presidential election in Chinese history held on March 23, Lee Teng-hui won 54 percent of the vote, far outdistancing his three opponents. Democracy has finally arrived in the Republic of China and I have nothing but admiration and good wishes for President Lee.

I hope my colleagues will join me in wishing that God may continue to grant President Lee, and his Vice President-elect Lien Chan, all the wisdom in government their country in the years ahead, and that the people of the Republic of China will continue to enjoy prosperity and freedom.

GIVE IT BACK, GIVE IT ALL BACK

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 27, 1996

Mrs. SCHROEDER. Mr. Speaker, the minimum wage was last increased in 1991 by a lousy 65 cents an hour. That works out to a lousy $1,300 a year.

Since 1991, Members of Congress have increased their salaries by a whopping $37,000. That's 30 times the raise minimum wage workers have received.

In fact, that $37,000 raise is more than quadruple what a minimum wage worker earns in total all year. The annual salary of a minimum wageworker is $8,800.

If BOB DOLE and NEWT GINGRICH want to block the proposed 1996 minimum wage increase, I have a suggestion, give back the $37,000.

A TRIBUTE TO MORTON GOULD

HON. JOHN BRYANT

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 27, 1996

Mr. BRYANT of Texas. Mr. Speaker, it is with much sadness I recognize the death of former ASCAP President Morton Gould on February 21. The current ASCAP president and chairman, Marilyn Bergman aptly stated that "America has lost one of its most distinguished composers and conductors, and the creative community has lost one of its great leaders."

The honors Mr. Gould received during his long and illustrious life are countless. Mr. Gould received the Kennedy Center Honor in 1994 and the Pulitzer Prize in Music in 1995. He was elected to the American Academy of Arts and Letters in 1986. In addition, Mr. Gould was an award winning recording artists, with 12 Grammy nominations and a Grammy award in 1966. Mr. Gould served on ASCAP's board of directors for over 36 years, and led the society as president from 1986 to 1994.

Mr. Gould's contributions spanned eight decades and included significant works for orchestra, chamber ensemble, band, chorus, and soloists, as well as scores composed for film, television, Broadway, and ballet. Throughout his career, his work was particularly American, making use of such roots music styles as jazz, blues, spirituals, and folk music.

His music has been performed by every major American orchestra under the direction of such eminent conductors as Fritz Mahler, Arturo Toscanini, Leopold Stokowski, Sir George Sotti, Andre Previn, Leonard Slatkin, Eugene Ormandy, and Arthur Fiedler. As a conductor, Mr. Gould led countless orchestras throughout the world and recorded over 100 albums.

Mr. Gould was a tireless advocate for new American composers, and constantly sought opportunities to help expose their work. I was privileged to know him and work with him to further these goals. Morton Gould will be missed by millions worldwide who were touched by his talent and music.

COMMEMORATING RAY LANE'S 50 YEARS OF KIWANIS SERVICE

HON. GLENN POSHARD

OF ILLIONIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 27, 1996

Mr. POSHARD. Mr. Speaker, as we know, Kiwanis International has stood for outstanding community service with an emphasis on young children for decades. I rise today to honor Mr. Ray Lane, a member and leader of Kiwanis clubs in Toledo, Effingham, and Mattoon, IL for the past 50 years. Since joining Kiwanis in 1946, Ray has worked at it with the same energy and enthusiasm with which he has approached his entire life. I salute him today for his commitment to his fellow citizens.

It comes as no surprise that the leaders of clubs such as Kiwanis are also leaders in their jobs and other activities. This describes Ray Lane. He has always answered the call to duty, and would rather blaze a trail instead of waiting for a path to be carved. Ray received his bachelor's degree and special degree in education from Eastern Illinois University, and it was in the field of education that Ray made his greatest professional mark. Starting out as a teacher and coach while also serving his country for 11 months in the Philippines, he moved on to superintendent of the Toledo school district, despite his protests that he wasn't qualified, when the school board told him, "But you're the only one we can find." Undaunted, Ray went on to excel, assuming his role in the newly formed Greenup and Toledo county school district, and later as superintendent of Effingham Unit No. 40 schools and the Mattoon schools. Ray was not only a gifted administrator, but an innovator in curriculum as well, developing new kindergarten and English rhetoric programs that were adopted by the State board of education. His first love has always been music, and he was instrumental in adding staff in this area and other programs that traditionally received less attention, like special education. Professional affiliations included the National Education Association, the American Association of School Administrators, the National Association of School Business Officials, the Illinois Education Association, the Illinois Association of School Administrators, and Phi Delta Kappa.

All the while, Ray has been active in other community endeavors, including the United Methodist Church, the Masonic Lodge, the Elks Club, American Legion, and the chamber of commerce. What makes his Kiwanis participation perhaps extra special is that it has paralleled all his other achievements and this tribute just scratches the surface of his voluminous contributions to central and eastern Illinois. He has served as president of all three of his Kiwanis clubs, and his service will not be forgotten. He and wife Pauline have accomplished a great deal while also raising two sons. Mr. Speaker, my respect for Ray Lane is momentous. He is an example of all that we can accomplish if we take on life eagerly and acceptingly. It is an honor to represent Ray in the U.S. Congress. I wish him health and happiness in the future, and thanks for his efforts.

INTRODUCTION OF THE PORT REVITALIZATION ACT OF 1996

HON. BOB FRANKS

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 27, 1996

Mr. FRANKS of New Jersey. Mr. Speaker, today I am introducing legislation to address the nationwide problem of disposing of contaminated sediments that accumulate in our ports. This bill is entitled "the Port Revitalization Act of 1996. I am pleased to have joining me as original cosponsors Representatives FRANK PALLONE, DICK ZIMMER, and RODNEY FRELINGHUYSEN.

Ports around the country must continually dredge their channels to ensure the safe passage of ships to their berths. If these channels are not dredged, oil tankers, container ships, and even passenger ships face the risk of running aground. While dredging has been a common practice for decades, the presence of contaminants in the mud at the bottom of our harbors now prevents the use of the ocean for disposal of a significant amount of dredged material.

This problem is especially acute in the Port of New York/New Jersey. Almost none of the 6 million cubic yards of required maintenance dredging will occur this year. Large container ships are now either scraping bottom or waiting for high tide to dock, and some shipping lines are already diverting their cargo to ports to Canada.

The Port Revitalization Act has several important features to address dredging crises at ports around the country. First, it expands the use of the Harbor Maintenance Trust Fund, which currently has a $500 million surplus, to allow it to be used for more than just the operation and maintenance expenses of Federal channels. This legislation allows the Fund to be used for the actual disposal of dredged material and for the construction of confined disposal facilities required for the safe disposal of dredged material, such as subaqueous pits, containment islands, and upland disposal options.

Second, under current law, the Federal Government can participate only in the ocean disposal of dredged sediment at a cost sharing ratio with a local sponsor of 65/35. This legislation offers a Federal cost sharing mechanism for the upland disposal of dredged material, as well as the construction of confined disposal facilities.

Third, this legislation reauthorizes, and increases funding for, the decontamination technology pilot study now underway by the Environmental Protection Agency. We must continue to invest in dredged sediment decontamination technology to make the material eligible either for beneficial upland use—golf courses, parking lots, etc., or ocean disposal.

Finally, this legislation authorizes a dredged material containment facility for the Port of New York/New Jersey, subject to the findings of the Army Corps of Engineers' Dredged Materials Management Plan for the Port of New York and New Jersey.

Mr. Speaker, this legislation has bipartisan support, as well as support from businesses, labor groups, State and local governments, and environmental groups. I urge my colleagues to cosponsor this legislation.

TRIBUTE TO TWO PROUD VETERANS

HON. GERRY E. STUDDS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 27, 1996

Mr. STUDDS. Mr. Speaker, I rise to pay tribute to two courageous men whose personal triumphs over discrimination in the military helped hasten the day when all Americans will have the right to serve their country.

Today marks the retirement from active service of Petty Officer V. Keith Meinhold, an openly gay man who successfully challenged the military ban in court and has continued to serve with honor in the U.S. Navy.

The case of Meinhold versus Department of Defense began in 1992, when Petty Officer Meinhold affirmed on national television that he is gay. It ended more than 2 years later, when the Justice Department declined to appeal a decision in Meinhold's favor by the U.S. Court of Appeals for the Ninth Circuit. The court ruled that Petty Officer Meinhold could not be discharged simply for stating that he was gay and ordered the Navy to reinstate him.

Since then, Meinhold has served with distinction as an aviation warfare systems operator first class at the Naval Air Station on Whidbey Island, WA. By all accounts, his performance as a sonar analyst and instructor has been exemplary. His latest evaluation describes him as "a top notch professional * * * with uncompromising standards. * * * highly respected and trusted by superiors and subordinates alike."

His commander notes that "his inspirational leadership has significantly contributed to the efficiency, training, and readiness of my squadron." That squadron has been called the most combat ready unit in the Pacific fleet. So much, Mr. Speaker, for "good order, discipline, and morale."

At 13:30 hours Pacific time today, Petty Officer Meinhold will say goodbye to his comrades in Patrol Squadron 46 and give his final salute—a proud gay veteran who has honored us all by his courage and dignity.

Sadly, Mr. Speaker, this past week also brought news of the death from AIDS of another pioneer in the fight against discrimination in the military. Sergeant First Class Perry J. Watkins was a true hero who challenged the ban years before it became a major national issue.

Sergeant Watkins was an outstanding soldier who served on active duty for 14 years, including tours in Korea and Vietnam. His commanding officer called him "one of our most respected and trusted soldiers," awarding him 85 out of a possible 85 points for performance and professionalism.

Watkins had been completely candid about this sexual orientation from the start of his Army career in 1968. He was permitted to reenlist three times before the Army adopted a more stringent policy on homosexuality and sought his discharge in 1981.

In 1989, the U.S. Court of Appeals for the Ninth Circuit ordered the Army to allow Watkins to reenlist, citing the fact that it had done so repeatedly "with only positive results." In 1990, the Supreme Court refused to hear the Government's appeal.

Sergeant Watkins never returned to the Army. A year after the appeal was rejected, the Army settled the case, agreeing to let Watkins retire with full benefits, back pay, an honorable discharge, and a retroactive promotion to sergeant first class.

I wish that Perry Watkins, who did so much to end this cruel and senseless policy, could have lived to see his goal finally achieved. It is in large part because of what he did that it will be achieved, and for this he will always be remembered.

THE GROWING INCOME GAP IN AMERICA

HON. MARTIN OLAV SABO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 27, 1996

Mr. SABO. Mr. Speaker, I rise today to express my continued deep concern over the growing income gap in America. Last week, I stated that we must address this problem now, by enacting policies that encourage responsible corporate citizenship. Today, I would like to offer one example of how we can do so.

It is clear from our recent budget debates that all Members want the legislation we pass to expend Government resources wisely, getting the most value for our Federal dollars and granting the benefits of Federal policy to those who truly deserve them.

Americans from across the political spectrum have decried high CEO pay and perks, which seem only to increase while layoffs grow and worker pay stagnates. Many of our constituents may be surprised to learn, however, that our Government allows corporations generous tax deductions for corporate pay. Meanwhile, the lowest paid worker in the company could be earning the minimum wage and be below the poverty level.

In granting such tax deductions, our Government is implicitly encouraging this type of excessive compensation. I believe that in giving business this tax deduction, we should expect something in return. This is why I introduced the Income Equity Act, H.R. 620. My bill would restrict the amount of executive pay that is tax deductible by linking the tax deduction of those who make the most at a company with the salaries of those who make the least. H.R. 620 would limit the tax deductibility of executive pay to 25 times that of the lowest paid full-time worker. For example, if the lowest paid worker in a company is a janitor who is paid $10,000 per year, then any amount of salary paid to the CEO above $250,000 would no longer be tax deductible as a cost of doing business.

My bill will not restrict the freedom of companies to pay its workers and executives as they please. H.R. 620 will, however, send a strong message that companies should look out for those at the bottom as well as those at the top of the income ladder. H.R. 620 would also raise the minimum wage from the current $4.25 to $6.50 per hour, making up for the loss in buying power the minimum wage has experienced.

The Income Equity Act would be an important first step in crafting Government policies that encourage responsible corporate citizenship. I do not seek to burden businesses, but they must realize that we all have roles to play in bridging the income gap. Today, I ask your support for the Income Equity Act, which is just one piece of what must be a comprehensive plan to restore working Americans' faith in our economy.

PERSONAL EXPLANATION

HON. JOHN N. HOSTETTLER

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 27, 1996

Mr. HOSTETTLER. Mr. Speaker, due to a snow emergency in my district that began early March 19, 1996, I was unable to return to Washington, DC, until late evening on March 20, 1996. As a result of this unforeseen delay, I missed the vote on passage of House Concurrent Resolution 48. Had I been able to be here for these votes I would have voted "yea" on roll No. 70.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Thursday, March 28, 1996, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

MARCH 29

9:30 a.m.
Armed Services
Airland Forces Subcommittee
To resume hearings on proposed legislation authorizing funds for fiscal year 1997 for the Department of Defense and the future years defense program, focusing on Army modernization programs.
SR-222

11:00 a.m.
Armed Services
Strategic Forces Subcommittee
To resume hearings on proposed legislation authorizing funds for fiscal year 1997 for the Department of Defense and the future years defense program, focusing on cooperative threat reduction program, arms control, and chemical demilitarization.
SR-232A

APRIL 15

10:00 a.m.
Judiciary
Constitution, Federalism, and Property Rights Subcommittee
To hold hearings on S.J.Res. 49, proposed constitutional amendment to require a two-thirds vote on tax increases.
SD-226

APRIL 16

9:30 a.m.
Appropriations
Military Construction Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1997 for Air Force and defense agencies' military construction programs.
SD-116

Commerce, Science, and Transportation
To hold hearings on proposed legislation authorizing funds for the National Transportation Safety Board.
SR-253

APRIL 17

9:30 a.m.
Rules and Administration
To resume hearings on proposals to amend the Federal Election Campaign Act of 1971 to provide for a voluntary system of spending limits and partial public financing of Senate primary and general election campaigns, to limit contributions by multicandidate political committees, and to reform the financing of Federal elections and Senate campaigns.
SR-301

10:00 a.m.
Appropriations
Defense Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1997 for the Department of Defense, focusing on Air Force programs.
SD-192

1:30 p.m.
Indian Affairs
To hold hearings on proposed legislation authorizing funds for fiscal year 1997 for Indian programs, and to examine related budgetary issues from fiscal year 1996.
SR-485

2:00 p.m.
Judiciary
Administrative Oversight and the Courts Subcommittee
Business meeting, to mark up S. 984, to protect the fundamental right of a parent to direct the upbringing of a child.
SD-226

APRIL 18

9:30 a.m.
Commerce, Science, and Transportation
To resume hearings to examine Spectrum's use and management.
SR-253

1:30 p.m.
Indian Affairs
To continue hearings on proposed legislation authorizing funds for fiscal year 1997 for Indian programs, and to examine related budgetary issues from fiscal year 1996.
SR-485

APRIL 19

1:30 p.m.
Indian Affairs
To continue hearings on proposed legislation authorizing funds for fiscal year 1997 for Indian programs, and to examine related budgetary issues from fiscal year 1996.
SR-485

APRIL 23

9:30 a.m.
Commerce, Science, and Transportation
Consumer Affairs, Foreign Commerce, and Tourism Subcommittee
To hold hearings on proposed legislation authorizing funds for the Consumer Product Safety Commission.
SR–253

APRIL 24

10:00 a.m.
Appropriations
Defense Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1997 for the Department of Defense, focusing on Army programs.
SD–192

APRIL 25

9:00 a.m.
Indian Affairs
To hold hearings on S. 1264, to provide for certain benefits of the Missouri River Basin Pick-Sloan Project to the Crow Creek Sioux Tribe.
SR–485

9:30 a.m.
Commerce, Science, and Transportation
To hold hearings on proposed legislation authorizing funds for the Federal Trade Commission.
SR–253

MAY 1

9:30 a.m.
Rules and Administration
To resume hearings on issues with regard to the Government Printing Office.
SR–301

SEPTEMBER 17

9:30 a.m.
Veterans' Affairs
To hold joint hearings with the House Committee on Veterans' Affairs to review the legislative recommendations of the American Legion.
335 Cannon Building

CANCELLATIONS

MARCH 28

10:30 a.m.
Appropriations
Commerce, Justice, State, and the Judiciary Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1997 for the Department of Justice.
S–146, Capitol

2:00 p.m.
Appropriations
Commerce, Justice, State, and the Judiciary Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1997 for the Department of Commerce.
S–146, Capitol