

an untouchable symbol of democracy, of decency—could possibly do the things that some people do, these days, in the name of freedom.

The flag stands for something miraculous that took life upon these shores more than two centuries ago and, if we only let it, will live on for centuries more. It stands for a glorious idea that has survived every challenge, that has persevered in the face of external forces who promised to “bury” us and internal forces which promised to tear us apart. Let us never forget this.

And let us not forget that 63 out of 99 senators voted with us, or that we won over 375 legislators in total. Our efforts were no more wasted than were the efforts to take remote outposts in the Pacific a half-century ago. Those efforts, too, failed at first, but eventually we prevailed.

We undertook a noble fight in trying to save our flag, and the fact that we have suffered a temporary setback does not diminish the nobility of what we fought for. This is not over by a long shot. They will hear from us again.

Mr. BYRD. Mr. President, on the Op Ed page of today's edition of the New York Times there is a column I want to call to my colleagues' attention entitled “Line-Item Lunacy” by David Samuels. Even though the current debate on this matter is over for now, I encourage my fellow Senators to take the time to read this thoughtful opinion. Mr. President, to that end, I ask unanimous consent that the column be printed in the RECORD.

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

[From the New York Times, Mar. 28, 1996]

#### LINE-ITEM LUNACY

(By David Samuels)

It's a scene from a paranoid thriller by Oliver Stone: A mercurial billionaire, elected President with 35 percent of the vote, holds America hostage to his minority agenda by vetoing item after item in the Federal budget, in open breach of the separation of powers doctrine enshrined in the Constitution. Impossible? Not anymore.

With the announcement by Republican leaders that they plan to pass the line-item veto this spring, the specter of a Napoleonic Presidency has moved from the far reaches of poli-sci fiction, where it belongs, to the brink of political possibility.

At the moment, of course, a Presidential dictatorship is far from the minds of the G.O.P. leadership and White House Democrats, who hope that the line-item veto would encourage the President to eliminate pork-barrel giveaways and corporate tax breaks. But to see the measure as a simple procedural reform is to ignore the forces that have reconfigured the political landscape since it was first proposed.

Back in the 1980's, President Ronald Reagan ritually invoked the line-item veto while shifting blame onto a Democratic Congress for ballooning deficits. Part Republican chestnut, part good-government gimmick, the line-item veto became part of the Contract With America in 1994, and this month rose to the top of the political agenda.

What the calculations of Democrats and Republicans leave out, however, is that the unsettled politics of the 1990's bear little relation to the political order of the Reagan years.

In poll after poll, a majority of voters express a raging disaffection with both major parties. With Ross Perot poised to run in No-

vember, we could again elect our President with a minority of the popular vote (in 1992, Mr. Clinton won with 43 percent). The line-item veto would hand over unchecked power to a minority President with minority support in Congress, while opponents would have to muster two-thirds support to override the President's veto.

By opening every line in the Federal budget to partisan attack, the likely result would be a chaotic legislature more susceptible than ever to obstructionists who could demand a Presidential veto of Federal arts funding or sex education programs or aid to Israel as the price of their political support.

And conservatives eager to cut Government waste would do well to reflect on what a liberal minority might do to their legislative hopes during a second Clinton term in office.

Nor would the line-item veto likely result in more responsible executive behavior. The zigs and zags of Bill Clinton's first term in office give us a clear picture of the post-partisan Presidency, in which the executive freelances across the airwaves in pursuit of poll numbers regardless of the political coherence of his message or the decaying ties of party. With the adoption of the line-item veto, the temptation for Presidents to strike out on their own would surely grow.

The specter of a President on horseback armed with coercive powers might seem far away to those who dismissed Ross Perot as a freak candidate in the last election. Yet no law states that power-hungry billionaires must be possessed of Mr. Perot's peculiar blend of personal qualities and doomed to fail. Armed with the line-item veto, a future Ross Perot—or Steve Forbes—would be equipped with the means to reward and punish members of the House and Senate by vetoing individual budget items. This would enable an independent President to build a coalition in Congress through a program of threats and horse-trading that would make our present sorely flawed system seem like a model of Ciceronian rectitude.

President Clinton has promised to sign the line-item veto when it reaches his desk. Between now and then, the historic breach of our constitutional separation of powers that the measure proposes should be subject to a vigorous public debate. At the very least, we might reflect on how we intend to govern ourselves at a time when the certainties of two-party politics are dissolving before our eyes.

Mr. BYRD. Mr. President, Mr. Samuels eloquently points out just one of the many concerns this country could very well face with the adoption of this legislation. He focuses on what might happen should our two-party system dissolve and allow for a rogue individual to be elected president by a minority of the American people. In this scenario, the possibility of a tyrannical oppressor freely and recklessly wielding power has to be considered. While at the present time the likelihood of such an event seems farfetched, it is just this type of concern that we elected members of the people's branch must consider.

Indeed, if there is one bright spot on this day after Senate passage of S. 4, it is that in eight years the Congress will revisit this issue. It is my hope that at that time, wisdom will prevail.

EDMUND S. MUSKIE

Mr. DODD. Mr. President, I wanted to take a few moments today to speak

about the death of former Senator Edmund Muskie.

I first met Ed Muskie during his visits to my family's house in Connecticut more than 30 years ago as he traveled back to Maine from Washington.

And like my father before me—I was honored to serve with him in Congress. I came to greatly admire and respect his leadership, his conviction, his knowledge and his great devotion to public service.

Edmund Muskie was a truly dedicated member of this body for 22 years. He served both the people of Maine and all the American people as a committed and able legislator.

And when his party and his President called on him he answered. He twice ran for national office as a Democrat: Once for Vice-President in 1968 and once for the Democratic nomination for President in 1972. And he finished his career as Secretary of State, under President Carter in 1980.

Throughout his more than two decades of public service Ed Muskie was ahead of his time in his efforts to keep our environment clean and America's fiscal house in order.

He earned the apt nickname “Mr. Clean” for his pioneering work on the Clean Air Act and Clean Water Act, both of which he shepherded through the Senate. Generations from now, when Americans are enjoying our safe and healthy air and water, they should thank Edmund Muskie for having the foresight and vision to place a clean environment on top of the political agenda.

And even before the era of exploding federal deficits in the 1980's, Edmund Muskie strived to bring fiscal discipline to Congress, as chairman of the Senate Budget Committee.

Yesterday, former President Jimmy Carter said he had “never known any American leader who was more highly qualified to be President of the United States.” And it is to the American people's misfortune that a man of such principle never had the opportunity to reach the Oval Office.

As a fellow Democrat and Northeasterner I remain committed to the policies that Edmund Muskie so energetically championed as a U.S. Senator.

My thoughts and prayers go out to his wife Jane, his children, his friends and the people of Maine.

#### THE CONSTITUTIONALITY OF THE LINE ITEM VETO CONFERENCE REPORT

Mr. HEFLIN. Mr. President, I rise today to explain my opposition to this so-called line-item veto conference report, which passed on March 27. I have been a strong supporter of a line item veto and feel that such legislation would provide the President with an effective weapon to fight wasteful spending. I have voted for several line item veto bills that I felt were constitutional. However, I did not support this

legislation, as it violates the plain reading of the Constitution.

In Article I, section 7, the Constitution sets out fundamental procedures for the enactment of a law. It states that every bill should be passed by both houses and then presented to the President to either sign or veto. If the bill is vetoed each house may override such a veto by two-thirds vote. The bill then becomes law once it is signed or a veto is overridden by each house of Congress.

This conference report allows the President, after a bill has become a law, to go back and review that law and to pick and choose what portions of the law he desires to repeal, and to do so in an unconstitutional manner. This flies in the face of the fundamental principal of "separation of powers" and the "checks and balances" of our government. Article I, section 1, of the Constitution states that "[a]ll legislative Powers herein granted shall be vested in a Congress of the United States.

The Supreme Court in *INS versus Chadha* discussed the importance of the "separation of powers" provisions in Article I, section 1. The court stated that

[t]hese provisions of Art. I are integral parts of the constitutional design for the separation of powers. We have recently noted that "[t]he principle of separation of powers was not simply an abstract generalization in the minds of the Framers: it was woven into the document that they drafted in Philadelphia in the summer of 1787."

The Court further expressed that,

[i]t emerges clearly that the prescription for legislative action in Art. I, sections 1, 7, represents the Framers' decisions that the legislative power of the Federal Government be exercised in accord with a single, finely wrought and exhaustively considered, procedure.

This conference report would allow the President, in effect, to repeal an existing law; thereby violating the provisions of Article I. The Court in *Chadha* held that "[a]mendment and repeal of statutes, no less than enactment, must conform with Art. I." The Court went further by stating that

[t]he 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.

This highlights the importance of maintaining the legislative procedures set out by the Constitution and the separate powers the Constitution has bestowed upon the three branches of our government.

Mr. President, this bill chips away at the constitutionally prescribed "checks and balances" set forth by our Founding Fathers. I believe that a line-item veto can be a useful weapon against wasteful spending if drafted so as to protect the fundamental proce-

dures set out by our Constitution; however, this bill as presented cannot sustain constitutional muster.

#### HELEN KELLY—A FAITHFUL PUBLIC SERVANT

Mr. BYRD. Mr. President, I have been a member of this body for nearly thirty-eight years. During this time, I have come to treasure the traditions of this institution and the unique place it holds in our system of government. Through the Senate I have worked with men and women who possess some of our country's finest and ablest minds, and with them, I have witnessed and been part of history.

While this history will attest to the importance of my fellow members of the Senate, often what goes unnoticed is the behind-the-scenes work of our staffs. I feel confident in saying that there is not a member of this body who could represent his or her constituents in this day and age without the diligent, hard work of Senate staffers. And it is to pay tribute to one of these dedicated staffers that I speak on the Senate floor today.

Twenty years ago, on March 8, 1976, Helen B. Kelly came to work in my office as a receptionist. She came with Hill experience, having previously worked for Congressman Broyhill from Virginia. This knowledge, combined with her natural interest and compassion for people, was quickly noted, and Helen was promoted to the position of caseworker.

In my office, as in other Congressional offices, there is no greater matter of importance than constituent services. As we all know, sifting through the federal bureaucracy can be a daunting and often exasperating experience. Well, Helen has mastered the art of cutting through Washington's red tape. Whether it be working out a visa problem for a constituent's family member or giving guidance to a military academy nominee, Helen has shown the dedication and perseverance to get the job done.

I want to say thanks and congratulations to Helen Kelly on behalf of my fellow West Virginians and the Senate. This is a demanding but rewarding profession. Were it not for people like Helen who breathe life and vitality into it, I believe the Senate would not be the premier legislative body that we treasure today.

#### JAPAN-UNITED STATES EXCHANGES

Mr. LUGAR. Mr. President, I rise today to discuss an important issue in our relationship with Japan. It has come to my attention that for every American student studying in Japan, 20 Japanese study in the United States. This puts the United States at a comparative disadvantage in dealing with issues of economic competitiveness and strategic cooperation that confront and will continue to confront our bilateral ties for many years.

Japan possesses the second-most powerful economy in the world. Its resources and expertise affect the health and vitality of international trade and finance. United States-Japan cooperation and understanding will be required if issues pertaining to the global economy, development, health, peacekeeping, weapons proliferation, the environment, and others are to be addressed constructively. At the same time, Japan's economic prowess poses significant challenges to and opportunities for improving the economic well-being of the United States. We simply must learn how to gain the trust and cooperation of the Japanese people, its entrepreneurs, and policy makers. We need to do better and be better informed about Japan if we hope to correct the nagging imbalance in trade. Historically, we have been ill-prepared for this task. We must be better prepared in the future.

One part of the solution to this problem lies in the education of young Americans in the language, culture, and society of Japan. It is the young Americans of today who will take the lead in dealing with their Japanese peers in a language and style the latter will respect and appreciate. Back channel politics has worked well through the years, but it is insufficient for the future. We now want to make certain there is a very large network of United States students studying in Japan that will make a difference in building the kind of bridges that are required if our relationship with Japan is to be more productive now and in the future.

Finally, Mr. President, I would like to mention that a coalition of public and private organizations is mounting a new program known as the Bridging Project to address this need to educate more Americans in and about Japan. In a time of fiscal stringency and belt tightening, public funds for this and other initiatives are going to become even more scarce. The private sector must get more involved. Private-public partnerships and other creative solutions involving the private sector will be required if we are going to keep pace with our Japanese competitors. We should encourage this coalition to do everything it can to ensure that the United States remains competitive with Japan in the future.

#### HABEAS CORPUS REFORM

Mr. HATCH. Mr. President, just short of a year ago, this country was rocked by an attack on the Alfred Murrah Federal building in Oklahoma City, OK. In the wake of that horrible, tragedy, this body took up antiterrorism legislation. I fought for the inclusion of meaningful habeas corpus reform legislation in the Senate bill over the initial hesitation of President Clinton. The House bill contains identical language. We will shortly be delivering a conference report to the President for his signature. At long last, after well over a decade of effort, we are about to