The Constitution has separation of powers. When the Founding Fathers organized the Constitution, they put Congress in article I. They didn't get around to the executive branch until article II. But today the system is inverted.

Since the Government was closed down in 1995 and our business has gone over into October and sometimes into November, there is no way for the Congress to do anything—at least we think so—but to yield to the President. That is why, as I have said earlier, we structured this bill on Labor, Health and Human Services, and Education so it could be finished and be presented to the President in September.

The mistake we made, quite candidly, was that we were negotiating with the President. We have undertaken in recent years nonconstitutional proceedings. The Constitution says that Congress will present a bill to the President after the Congress decides what the legislation should be, and then the President either signs it or vetoes it. But that has been turned around.

Now we have members of the President's executive branch sitting in our legislative conferences. We ought not have that. We ought to present our bill and let the President sign it or veto it. This Senator tried mightily to get that bill presented to the President in September. Then if the President wanted to veto it, so be it, that is his constitutional prerogative. But he doesn't have a constitutional prerogative to sit in on the legislative process and the Congress accede to it. We ought to change that.

I think if the American people had seen this bill, they would have preferred the congressional priorities to the President's priorities. The Congress gave the President 90 percent of what he wanted—more than 90 percent. We have a bill which is $40.2 billion for education. The President's staff objected to $3.3 million, less than 10 percent of $40.2 billion. But we had some other priorities we wanted. We wanted special education. We also wanted money for the National Institutes of Health, where they have made enormous strides in conquering Parkinson's disease, Alzheimer's disease, breast cancer, ovarian cancer, heart ailments, and a whole range of medical problems.

We had different priorities. I think if we had presented those priorities to the American people, the American people would have sided with the Congress. So September went by the board. There were negotiations in September. And I make the representation that it was the intransigence of the White House which resulted in those negotiations not moving forward. I make that representation because our priorities were as good as theirs or better.

But having given the President 90 percent, he should have been willing to accommodate to the 10-percent change in our priorities without demanding to control every semicolon in the bill. I think we met him more than halfway when we gave him $2.7 billion for school construction and for teachers, but we said this ought to be local control if the local district needed something more.

I was interested to hear what the Senator from Nevada had to say about the Las Vegas school system, its expanded school system and its need for schools. I can understand the need in Las Vegas for schools. However, I have a hard time understanding why Las Vegas schools ought to be paid for from Washington by the American taxpayers.

If there is one area in the country which has a tax base to support their local needs, it is Las Vegas. Las Vegas is the gambling capital of the world, and I say that with respect. I have been there. I haven't gambled, but I have been there. They have an enormous tax base. If we are putting up $1.4 billion for school construction in the big bond issue for American cities such as Las Vegas where they can afford it themselves, I have grave questions as to whether we ought to be doing that. But we did it.

We presented it for the President. The President's men wouldn't come to a compromise. So what has happened is all the bills are finished except one bill. That bill can't be acted upon until Tuesday at the earliest. And the President is keeping us here to make a political point.

My preference would be, as Senator STEVENS said yesterday on the floor, he was considering amending the continuing resolution to provide for a 4-day continuing resolution which would carry us to Tuesday just to send to the President; then let the President sign it or veto it.

The difficulty with that is that the Government of the United States, the executive and legislative branches, are not exactly held in high esteem by the American people. And my instinct is that if we got into that sort of a situation, a game of chicken, a game which resembles a childish food fight, the people of America would say a plague on both of your Houses. It reminds me just a little bit of the confrontation that Piazza had with the Yankee pitcher. Piazza decided not to confront the Yankee pitcher after he threw a bat at Piazza. I think Piazza did the right thing, although people criticized him for not confronting the Yankee pitcher.

We are in a situation where the President is keeping us here so he can make a political point to try to have a democratically controlled Senate and a democratically controlled House and win the Presidency. We are not here doing the business of the people. We would be doing the business of the people if we attended our regular schedules and were free to do constructive work instead of sit around here on Saturday, Sunday, and Monday.

I do believe, Mr. President—speaking to the President of the Senate, Senator BENNETT, who is presiding—we have been intimidated. The President is doing this as a form of punishment, a form of humiliation. We have a lot of very delicate relationships with the executive branch. It has to linger in the background among some minds as to just what the executive branch is doing, whether they are operating in good faith.

I say bluntly, keeping the Congress in session without any purpose is the worst of bad faith. We will do our job notwithstanding the executive branch and the President's men and women exercising the worst of bad faith, but we won't forget about it.

I yield the floor, and I reserve the remainder of my time.

The PRESIDING OFFICER (Mr. BENNETT). The Senator from Nevada.

WORK OF THE SENATE

Mr. REID. Mr. President, first of all, the President, I repeat, is doing the right thing. The right thing is having Congress do its work. This is all a game.

Now if we could complete our work by Tuesday, it seems to me if people hung around here and did their work now—they said they have to start reading the bill—let them read it now. I also say if people want to expedite matters and challenge the President's authority, I am standing right where I am today and yesterday. I said we will agree on a voice vote to the tax bill and send it to the White House this afternoon. Nope, objections from the other side. They wouldn't let us do that. They wouldn't let us do that. They are here stalling for reasons that some of us are having a little trouble determining, but they are stalling. They have continued to stall. That is why we wouldn't get any appropriations bills passed until very recently.

My friend from Pennsylvania said there is no factual variance. I was going to run through some of those, but the analogy is something like this. He says we gave the President 90 percent of what he wanted. Whether that is right or not, the point is, it is like a football game. You go to the 10-yard line and you almost make a touchdown; does that mean you should get the score? The answer is no. The score should not be given to the majority because they have not done their work. They haven't even gotten to the 10-yard line.

I say Members should be here working. The President is saying we should work. We don't need to go home. Some of us have a long way to go to go home. We should be here doing our work. I think the American people understand that the President is equal to the Congress.

I don't know why the framers of this Constitution had article I the legislative branch, article II the executive branch, article III the judicial branch. They could have been reversed. It doesn't matter. They are separate but equal.

I am so thankful that the President recognizes his ability to take a look at what is going on here and say, ''I don't like it.'' That is what he said. He doesn't like it and 46 of us over here, we don't like it either.

Because of that, we are in the position we are now in. No one is being humiliated. The word was used twice by the Senator from Pennsylvania. But, no one is being humiliated. The Constitution has been in effect for over 200 years. The President has an absolute right to do what he has done. If, in fact, the majority does not think the President will veto these bills, send them down and we will find out.

The problem is really that the bills are unfair. We have had very little input. We will let the American people decide who is right, whether President Clinton is right in doing what he is doing or the Republicans are right, doing what they are doing. I think the American people will resoundingly proclaim that what has gone on over here has been not only procedurally unfair, it has been substantively unfair.

I also say, using Nevada as a State that doesn't need help—no one is asking that local control of schools be taken away. This is something the majority always uses. Only about 7 percent of what any school district in America gets comes from Washington. There is not a person on the Democratic side who says they want to take control away from local schools. We are saying that schools need some help in helping pay the interest on the bonds. The illustration I used was that the State of Nevada spends $112 million in interest without paying a single penny on the principal. We are a small State, 2 million people. His State is 12 million people. We believe the people of America realize the school problems we have, the education problems in America are national in scope and Congress has to take a look at some of the national problems. Schools are crumbling, classes are too large, too many kids are dropping out of school. The solution the majority has is to take control away from public schools and put all the money in private schools; do what you can to damage and destroy public schools. We are not willing to do that. We believe that because the vast majority, in fact almost 95 percent, of kids go to public schools, we should do what we can to improve public schools.

Again, I think the Senator from Pennsylvania does an excellent job as chairman of that subcommittee. I understand his frustration. A lot of the control has been taken away from the subcommittee chairs and ranking members in these last days of Congress. The majority leadership is calling a lot of the shots. That is what we read about. The Democrats can only read about it because we are not in many of these negotiations. But the Senator's frustration does not take away from the fact that the President of the United States has done the right thing in saying Congress should be working this weekend, every day, until Congress completes it work.

The PRESIDING OFFICER. The Senator from Louisiana.

TAX CREDIT FOR SPECIAL NEEDS ADOPTIONS

Ms. LANDRIEU. Mr. President, I would like to begin by commending the Senator from Nevada for his remarks, and to say that I agree with him and urge the President to veto the upcoming tax package. As written, the tax bill allocates tax breaks and tax benefits to many different interests and entities throughout America. While there are some good provisions in this bill, it could be more fair, more just and could give greater tax relief to those who need it the most. As it stands know, the package fails to demonstrate our commitment to many of the principles that we claim to stand for here on this floor.

That is why I have come to this floor a number of times over the last couple of days, to just raise awareness about one small, but I think very important, part of the tax bill. I am happy to note that yesterday our majority leader, the Senator from Mississippi, Mr. LOTT, and one of the leaders on this issue, our colleague from Idaho, Senator CRAIG, came to the floor and recognized that there had been, perhaps, a mistake made or a phrase not included, that if left out, could have some dire consequences for some of the children in this Nation—quite a large group, I might add, about 100,000 of them and potentially several hundred thousand more—who are really the most vulnerable among us.

These are children who no longer have parents. They are the orphans of living, if you will. They are the children who are in foster care. These are the children who have already been abandoned once by an adult who was supposed to be taking care of them.

I say to the Members on this floor—I see my good friend, Senator GRASSLEY, who has been an outspoken advocate on this issue—that we have the opportunity because when this bill is presented to the President, he has said he will veto it because it is not distributing these benefits as equally across the board as they should be. I am hoping we can come to a bipartisan agreement, with Republicans and Democrats and the President himself, to fix what is missing in this tax credit.

Let me explain a little bit about that. In 1996, there was for the first time a credit put in our Tax Code to advance adoption. I am the proud mother of two adopted children. They have brought my husband and me the greatest joy. In fact, when he was 5 years old my husband was adopted from an orphanage in Ireland. We talk publicly about the great joy of adoption. We want people to know it is a wonderful way to build a family.

There are Members in this Senate, Republicans and Democrats, who have adopted children and who speak regularly about the choice of building families through adoption. The benefits to a birth mother, the benefits to the adoptive family, and most certainly the benefits to children, young and old. Some people think you don't need a family when you are 18, you just sort of age out of the system and with a good education and diploma in your hand you can go on.

I am 45. I am looking forward to going home to Thanksgiving dinner with my mother and father. My husband is 50. He is looking forward to going home for Christmas with his family. You are never too old to need a mother and father, and that is what this is about, changing attitudes in America to say every child deserves a family.

We have a provision in this bill that is a good provision in that it proposes to increase and extend this very important adoption tax credit. It is now $5,000. In this bill, it would be doubled from $5,000 to $10,000 for adoptions because, as we all know, the expense associated with adoption can be high. There are legal expenses. There are expenses associated with home study, agency fees. In fact, those expenses can range anywhere from a low of $2,000 to a high of $30,000, depending on what agencies you use or whether you are going through a domestic or an international adoption.

So far all is good because we have a tax credit in place and we are about ready to double it. It could not be at a better time because the number of adoptions are up in America. Last year we had 130,000 adoptions, 130,000 families. That is a lot of people affected, if you think about happy grandmothers and grandfathers and aunts and uncles and siblings. It is quite a number of happy Americans whose lives were made better through adoption.

But there is a problem. I have tried to keep raising this issue until it is fixed. In the current bill, although the special needs adoption is being doubled to $12,000, this Treasury report which was issued this month and other letters and reports that have been written over the last several years, have indicated that the credit is not working for the special needs children. Because of the language in the law, not—let me underline ''not'' because of a wrong interpretation by IRS—but because of our inability to write the proper phrase in the law—either our inability or our unwillingness—the tax credit is related to adoption-related expenses. We need to remove that phrase so the act of adoption itself of special needs children can get the credit.

I wish to show you pictures of a couple of the children who are going to be left out if we do not make this fix. There are 100,000 children in foster care. Jennifer is one of them. Because Jennifer has been in foster care for some time, her adoption will not be handled by a private agency. Her adoption, if a family would come forward to