



United States
of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 104th CONGRESS, FIRST SESSION

Vol. 141

WASHINGTON, MONDAY, MARCH 20, 1995

No. 51

House of Representatives

The House was not in session today. Its next meeting will be held on Tuesday, March 21, 1995, at 12:30 p.m.

Senate

MONDAY, MARCH 20, 1995

(Legislative day of Thursday, March 16, 1995)

The Senate met at 10 a.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

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

Let us pray:

The Word of the Lord sounds a clarion call in our souls as we begin this new week:

"Let not the wise man glory in his wisdom, let not the mighty man glory in his might, let not the rich man glory in his riches; but let him who glories, glory in this, that he understands and knows me, that I am the Lord, exercising lovingkindness, judgment, and righteousness in the earth. For in these I delight," says the Lord.—Jeremiah 9:23-24.

Lord, thank You for this decisive declaration of Your priorities for us as individuals and as a nation. Forgive us when we try to grasp the glory for ourselves, our party, our position, our past. We live with the ever-present question, "Who will get the glory?" So often we take false pride in our accomplishments, and the accumulation in our self-made kingdoms of thingdom. Often we miss the real purpose of life: to know You and emulate Your love, justice, and righteousness. We turn from all our lesser goals of aggrandizement and focus our lives on this ultimate calling.

We commit this day to seek what delights You. We want to give You the

glory for all we have and are, for the opportunities to serve You by being servants of others, and for the awesome responsibilities of leadership You have entrusted to us.

And so we grasp the challenge of this day with an attitude of gratitude. To God be the glory. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. DOLE. Mr. President, leaders' time has been reserved, and the Senate will immediately begin controlled general debate of S. 4, the line-item veto bill, until the hour of 5 p.m. today.

At 5 p.m. today the Senate will begin consideration of S. 4. Therefore, amendments may be offered beginning at 5 p.m.—may be offered. However, I have stated there will be no rollcall votes during today's session.

Mr. McCAIN addressed the Chair.

The PRESIDING OFFICER (Mr. THOMAS). The distinguished Senator from Arizona is recognized.

LINE-ITEM VETO

Mr. McCAIN. I thank the Chair for his recognition.

Mr. President, I would like to begin by addressing some of the remarks that were made on Friday by the distinguished Democratic leader. I think it is

pretty clear now what the strategy of the opponents of S. 4 will be.

Very frankly, Mr. President, it will be to attempt to foist off on the American people the idea that a majority vote in one House constitutes a veto. It will be the idea that the traditional belief that a two-thirds majority is required to override a veto is now replaced by a simple majority in one House.

Mr. President, as a result of the 1994 elections, the American people sent a message and a clear and unequivocal one that they want the pork-barrel spending stopped. They want it stopped. They figured out that the money that they sent to Washington, DC, does not all come back. In fact, it comes back to different States and congressional districts in different amounts, but some of it always stays here in Washington, DC.

In Senator DASCHLE's remarks on Friday, he said:

The President is prepared today or tomorrow or any time to reiterate what he said all along.

He said he just came from a meeting with the President of the United States.

He supports the line-item veto. It is that simple. There is no question about it.

Mr. President, if that is true, and I do not question the distinguished minority leader's remarks, I would like to hear from the President. We on this side of the aisle would like to hear

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



Printed on recycled paper containing 100% post consumer waste

S 4153

from the President. The American people would like to hear from the President of the United States. I would like to see a strong letter from the President of the United States to every Member of this body before we take up the debate on S. 4 this afternoon and amending it that he supports the line-item veto, and the line-item veto means two-thirds vote by both Houses in order to override.

If there is no question about it and if the President of the United States is committed, as he was in the quote from "Putting People First" where he said he needed a line-item veto, where he personally told me 2 years ago that he was in support of the line-item veto, and just recently in a number of public occasions the President of the United States has said that he is in favor of the line-item veto, it is time for the President to weigh in and support it and support it strongly. Otherwise, what is going to happen is that those who know they no longer can take the line-item veto head on and defeat it on a procedural motion or just defeat it on a straight up-or-down vote will make every attempt to succeed by us being unable to get 60 votes to cut off debate because they will support a watered-down, meaningless charade that they call a line-item veto which allows an override of the President's veto by the majority of one House of Congress.

Mr. President, it took a majority vote of two Houses of Congress in order to put the pork in. So let us not kid ourselves about what the issue is here.

I have to go back, though. The distinguished minority leader said—the fact is so for most Democrats:

I have supported a line-item veto since coming to the Congress. I did 15 years ago and I do today. I always have. I believe that it is an important aspect of good legislating.

I wish that that had been displayed on the numerous occasions in the last 8 years that Senator COATS and I tried to get the line-item veto up for a vote. We were blocked from doing so, Mr. President, on each occasion on the votes, on a procedural matter which prevented us from getting an up-or-down vote.

In 1989, Senator DASCHLE voted "no" as far as allowing the line-item veto to be brought up, as the vote was on a budget point of order. A budget point of order was raised against our efforts to bring up the line-item veto as an amendment. In November 1989, Senator DASCHLE voted "no." In 1990, Senator DASCHLE voted "yes." In 1992, Senator DASCHLE voted "yes." And on a motion to table in 1993, Senator DASCHLE voted to table.

So I must say that the position of my friend from South Dakota on this issue has been somewhat mixed.

In 1993 on a motion to waive the Budget Act, the vote was 45 to 52. Senator DASCHLE voted "no" to waive the Budget Act as late as 1993, so that we could bring the line-item veto up for consideration.

But I will accept Senator DASCHLE at his word. I will accept the minority leader at his word that "everybody wants a line-item veto." But if they really do support the line-item veto, Mr. President, they will support the meaning of the word "veto."

The word "veto," according to the Constitution of the United States, calls for a two-thirds majority in order for the veto to be overridden. Section 7 of the Constitution of the United States:

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 to that House in which it shall have originated, who shall enter the Objections at large on their Journal, and proceed to reconsider it. If after such Reconsideration two-thirds of that House shall agree to pass the Bill, it shall be sent, together with the Objections, to the other House, by which it shall likewise be reconsidered, and if approved by two-thirds of that House, it shall become a Law.

Mr. President, the Constitution of the United States describes what a veto is and what is required in order to override that veto.

Mr. President, the Senator from South Dakota goes on to say:

I recognize that 43 States have already done what we would like to do here. Forty-three States have already acknowledged that Governors ought to have an opportunity to review and send back for further review items in legislation.

Mr. President, he does not mention that it requires a two-thirds vote to override a Governor's veto. In the 43 States out of 50 that have line-item vetoes that Senator DASCHLE obviously approves of, there obviously clearly is a two-thirds vote required in order to override.

Mr. President, may I ask how much time is divided between the two sides?

The PRESIDING OFFICER. Under the order there are 209 minutes for each side. The Senator from Arizona has used 8 minutes.

Mr. McCAIN. I thank the Chair.

Mr. President, last Friday, the Democratic leader, as I mentioned, took the floor of the Senate to lay out his views regarding the line-item veto, which I assume are in league with many others on the other side of the aisle. I must say I found the statements confusing and contradictory. The Senator from South Dakota vowed his support for the line-item veto, then in the course of remarks expressed his opposition to the pending bill and the expected substitute, both of which provide true line-item veto authority.

Mr. President, he alleged that the separate enrollment substitute was something the Senate has never seen before. The facts are quite to the contrary. The Senate voted on this measure in 1985. It has been introduced in every Congress since that time. In fact, two separate enrollment bills have been introduced in this session, cosponsored by Senators on the other side of the aisle and cosponsored by a number of our Democratic colleagues.

But most confusing of all, the Senator from South Dakota went on to pledge his support for a measure that is not a line-item veto at all, a process known as the expedited rescission which would allow a simple majority in either House to block a Presidential veto of wasteful or unnecessary spending. I am disturbed by the contradiction, and it begs the application of the tried and true admonition: "Watch what we do, not what we say."

I just quoted from the Constitution of the United States, but I wish to emphasize again that this issue of the line-item veto will come down to whether we enact a true veto, which is a two-thirds majority in both Houses in order to override a President's veto and eliminate the unnecessary spending and wasteful spending that has become epidemic to the point where we now have nearly a \$5 trillion national debt, or whether we will enact some kind of sham or charade or false line-item veto which will allow the President's veto to be overridden by a simple majority of one House.

Mr. President, that is simply not acceptable. It is also, frankly, a terrible fraud that we would perpetrate on the American people.

Each year the Library of Congress distributes an information packet on legislative procedures which House and Senate Members send to their constituents, many of whom are students educating themselves on how Congress works. This packet describes the veto override process as follows:

Overriding a veto requires a two-thirds vote of those present who must number a quorum and vote by rollcall.

That is what we tell students, and it is perfectly correct. But in this Chamber in classic Orwellian fashion we seem to be redefining the process and, contrary to the facts, call expedited rescission a veto. Why? Because it is politically convenient. It sounds tougher.

Mr. President, the American people have not had enough reform. They have had enough rhetorical bait and switch. Substance is what counts, substance is what the American people deserve, and substance is what we are duty bound to legislate.

Let me also point out, Mr. President, that by a vote of 294 to 130, the other body adopted the line-item veto that we are considering today and will be taking up formally this afternoon. The same proposal of a simple majority in one House was also voted in the other body, and that vote was overwhelmingly in rejection of it. I have talked to the leadership of the other body, and the fact is clear that they will not accept anything less than a true line-item veto.

I must say I was somewhat surprised, if not a little amused, by the remarks of the Senator from South Dakota in which he criticized separate enrollment as too cumbersome and time consuming. The President of the United States, the Speaker of the House, and

the President pro tempore will have to sign more paperwork.

I know they are busy people, and I am sorry for the extra burden but, Mr. President, if eliminating wasting of the taxpayers' dollars and reducing the deficit spending on this and future generations is not important, please tell me what is. If our political leadership is not here to ensure that the fruits of our constituents' labors are not squandered and that Government functions in a lean and efficient manner, then what are we here for? Is it about the debated trappings of the Founders' oak desks, gilded ceilings, and marble halls, no matter how it is exercised?

No, I do not believe it. I categorically reject that any extra paperwork resulting from the line-item veto is a waste of time. Given the tens of billions of dollars that will be saved, it may be the best cost beneficial expenditure of time in the Federal service.

As Senators, we take an oath to uphold and defend the Constitution of the United States. There is not one amongst us who does not regard that pledge, that responsibility with the highest sense of duty and obligation.

When we debate the issue of public expenditures, there is always intense discussion regarding the intention of our Founding Fathers. Mr. President, the Framers vested the President with veto authority as part of that miraculous system of checks and balances that distinguishes our national character from any other in the history of mankind. They knew that the veto was an essential check on the legislative branch. They had no idea how wise they were.

Mr. President, I will show you the first spending bill approved by Congress. It was one page. And I can tell you that what the Congress in its early years enacted were single-page bills that were addressing one item and were sent to the President's desk.

It was not until sometime around the Civil War that the so-called riders began to be added to appropriations bills and other bills, and one of the first to really complain vociferously about it was President Grant. And, of course, as we know, that has proliferated and proliferated to the point where I remember in 1984 when President Reagan, speaking in the State of the Union Message had displayed a 1,300-some page—I believe it was 2½ pounds—continuing resolution.

Now, Mr. President, which would the American people prefer, a 1,300-page continuing resolution, most of which had never been seen or read by the majority of the Members of both bodies, much less the President of the United States, or would they prefer a single bill that they know is going to contain much-needed and vital funds, their taxpayers' dollars for much-needed projects or efforts? I think the answer is obvious. I think it is long ago time for us to look seriously at single enrollment.

Another thing about single enrollment is that maybe we will reduce some of the rampant numbers of riders and additional appropriations and items that are tucked into appropriations bills which most of us never see until long after the bill is passed and has reached the President's desk.

I urge my colleagues to look at the way we used to do business in the early days, and when we are debating this issue of the intentions of the Founding Fathers I do not believe that there was a single Founding Father who believed that we would be considering bills of thousands of pages in length with tens of thousands of line items associated with them. I think we could avoid many items—for example, fruit and vegetable market analysis, Russian wheat aphid, wood utilization research, et cetera, et cetera—that we find highlighted on an annual basis unfortunately after the fact.

Let us take a look and see what 200 years has done to the legislative process. I want to show the continuing resolution, as I mentioned, in 1984. It is thousands of pages of every kind of spending. We told the President either to swallow the whole thing or to shut down the Government. Is this what James Madison and Thomas Jefferson had in mind? I do not think so.

In the coming days, some will question whether we have the constitutional authority to separately enroll bills for presentation to the President, even though article I section 5 of the Constitution leaves to Congress the determination of its rules and what shall constitute a bill. I wonder where those who handwring about the constitutionality of separate enrollment were in 1984? I did not hear any outcries of indignation of the constitutionality of thousands of pages of continuing resolution passed in the form of a single bill.

In 1985, when the Senate debated separate enrollment, the argument was made that the President never sees the details of appropriations bills and that the line-item veto would simply empower bureaucrats at the Office of Management and Budget. They used the ignorance argument to oppose separate enrollment.

Mr. President, the allegation of Presidential ignorance cries out for separate enrollment. Perhaps it is high time the Chief Executive sees where taxes are going specifically. Maybe when he is asked to affix his consensual signature to a sentence saying that millions of dollars will be appropriated for a research participation center at a specific university or for military construction at a base to be closed by the Pentagon, the bells will ring, the lights will flash, and line-item veto of our expenditures will give rise to line-item responsibility by those both in the legislative and executive who have been invested with stewardship in the public purse. Allowing the President to remain ignorant of what it is he signs is a very poor and

uncompelling argument against the line-item veto.

The assertion will also be made that line-item veto will give the President the opportunity to extort Members of Congress; the President would get a leg up in the executive-legislative contest, or tit for tat. The President would say, either I get your vote for this bill that I want, Congressperson, or I will kill your project.

There are two fundamental flaws in this argument. First, despite being an extremely cynical assessment of the President, it completely ignores the court of public opinion, before which the President and every other elected official must be called to account and the judgments of which vote-seekers are extremely sensitive to. Legislative extortion, if it were to occur, would be a gold mine for the fourth estate which is always eager to shed sunlight on such mischief. No doubt practitioners in the public arena would feel the swift rebuke of public disapproval.

The second is the argument never takes into account the current and more supportive practice of log rolling, "I'll support your pork if you support mine," which leaves its mark on practically every appropriations bill and which has given Congress approval ratings somewhere between Stalin and peptic indigestion. The "go along to get along" is far more dangerous than the prospects of legislative extortion which, if it does occur, would only manifest itself if Members willingly give in to such pressure. Surely we think better of ourselves and our colleagues than that.

The debate that will take place over the next several days is sure to be spirited and the debate we are certain to hear much more about is the balance of power. The allegation that line-item veto distorts the balance of power will become, I suspect, the mantra. The statement will be made, and it is correct, that Congress retains the power of the purse. How have we exercised that power? What is the fruit of that virtually unchecked authority? Yearly deficits of nearly \$250 billion, an amount that will triple in 10 years if we stay the present course; a \$4.6 trillion millstone of debt we have hung around the neck of future generations; a yearly budget one-fifth of which must be dedicated to pay the interest on our debt.

Mr. President, I point out again, from the earliest days, from the earliest Congresses of the United States, expenditures and revenues were roughly equal. I have a chart that indicates that was so throughout this Nation's history.

Also throughout this Nation's history, beginning with Thomas Jefferson, Presidents exercise the right to impose funds. Thomas Jefferson imposed \$50,000 which the Congress of the United States had appropriated to procure gunboats. The threat no longer existed, the President of the United States, President Jefferson, did not

spend that money, and from then on every President of the United States, to a greater or lesser degree continued that practice of impoundment of funds.

In 1974, the Congress of the United States passed the present Budget and Impoundment Act which deprived the President of the United States of that ability and put the rescission process basically into the hands of the legislative branch. In other words, if the President of the United States proposes a rescission and if the Congress does not act, then that rescission is not enacted. So, by merely passively reacting to a Presidential rescission, the Congress of the United States virtually stymies any President's efforts to reduce wasteful and pork-barrel spending.

In 1974, that is when expenditures and revenues began to diverge in a dramatic fashion. We have not, throughout this Nation's history, had this burgeoning debt that I just described, or anything like it, except in times of war. And the Congress and the people of the United States, when those times of war were over, have quickly acted to bring us out of deficit by their practice of appropriating so the debt was removed, because for nearly 200 years Congress and the people of the country realized that a burgeoning debt, laid on future generations of Americans, is nearly an unconscionable act—it is, in fact, an unconscionable act.

But in 1974, because of the shift in power, the shift in power that will be debated right here on this floor, the ability of the executive branch of the United States to exercise fiscal responsibility and fiscal restraint on the Congress of the United States disappeared and the deficits began to grow and the debt began to accumulate.

I will have a pie chart at some time during this debate that shows how much of the Federal budget in 1974 was spent on paying interest on the national debt. It was a very small amount, somewhere around 1 or 2 percent.

Now, this year, we will spend more on paying interest on the national debt than we will on national defense. I do not know how you pay off a \$4.6 trillion debt. I do know this, that there are many experts who are saying that the recent decline in the dollar was directly related to the Congress' failure to enact a balanced budget amendment to the Constitution of the United States because our debt is so large and requires such a huge influx of foreign dollars that we are very vulnerable to the vagaries of the investment policies of foreign investors and foreign nations.

All that aside, I do not know, as the Senator from Missouri stated so eloquently on Friday in his presentation, how in the world you can expect any family, any business, any government to operate on a continuously deficit basis and not sooner or later have a crisis of enormous proportions. And the longer we wait and the larger this debt

gets, the greater will be the cataclysm when we finally face up.

I was fascinated, again on Friday, when we strayed back into the issue of Social Security and raiding the Social Security trust funds and the terrible impact that a balanced budget amendment to the Constitution would have on the Social Security trust funds. I not so proudly point out I was one of two Republicans who voted for the amendment that would protect Social Security. But the fact is, we cannot protect Social Security, we cannot protect Medicare, we cannot protect anything—there is nothing we can protect—if this country goes bankrupt; if we do not stop amassing this huge debt that is a millstone around the neck of future generations of Americans.

So, to argue that Social Security must be protected I think is a legitimate argument. But to ignore the consequences of a failure to balance our budget on Social Security or any other program—because either the country goes bankrupt or we debase the currency through inflation thereby reducing the national debt in real terms. And what happens, though, when you debase the currency? When you debase the currency, as we have found time after time in other nations throughout the world, and nearly so in this Nation a couple of times, you destroy the middle class and the middle class is the fundamental pillar of democracy as we know it.

So let us not kid ourselves about balance of power. The balance of power has resided basically in a very fundamentally balanced fashion for nearly 200 years. In 1974 that balance of power was skewed dramatically on the side of the legislative branch.

Let me also mention another thing that seems to come up quite often. During the many years that passed, 8 years that I have been a Member of this body, when I would bring up the line-item veto, one of the first responses would be, "Well, you would not support that if it was a Member of the other party who was President." I have always stoutly denied that to be the case, and indeed I am now proving that is not the case. But the fact is, too, that this President of the United States will probably, if when given this power—and I believe he will sooner or later be given this authority—will veto an item that I think is wrong. Because he and I are of different philosophy and different party, he will take some executive actions that I do not agree with. It may be harmful in the short term, especially in the area of national security. Clearly, I am in strong disagreement with the administration on how much funds should be spent on national defense and this President of the United States may choose to veto some items especially brought up on the floor, such as the ballistic missile defense capability. I am willing to take that risk because, if we bankrupt the country, we are not going to have any

ballistic missile defense capability at all.

So I would like to state again, it matters not who is the President of the United States or what persuasion or what party. What matters is that are we going to be able to stop the terrible things that have gone on for so long which have caused us to find ourselves in a deplorable situation where paying off the national debt is rapidly becoming one of the largest portions of our national budget.

Mr. President, in the case of the separate enrollment being constitutional, I think it is important for us to consult with various leaders who are experts on the Constitution. I think it is important that we understand that the Congress has the right to present a bill to the President of the United States. As I mentioned article 1, section 5, each House of Congress has unilateral authority to make and amend rules governing its procedures. A separate enrollment speaks to the question of what constitutes a bill. It does nothing to erode the prerogative of the President as that bill is presented. Under the rulemaking clause, our procedures for defining and enrolling a bill are for ourselves to determine alone.

There is precedent provided in the House rule, the so-called Gephardt rule. Under this rule the House clerk is instructed to prepare a joint resolution raising the debt ceiling when Congress adopts a concurrent budget resolution which exceeds the statutory debt limit. The House is deemed to have voted on and passed a resolution on the debt ceiling when the vote occurs on the concurrent resolution. Despite the fact that a vote is never taken, the House is deemed to have passed it.

The American law division of the Congressional Research Service has analyzed separate enrollment legislation and found it constitutional.

Johnny Killian wrote:

Evidently, it would appear to be that simply to authorize the President to pick and choose among provisions of the same bill would be to contravene this procedure. For a separate enrollment, however, a different tack is chosen. Separate bills drawn out of a single bill are forwarded to the President. In this fashion, he may pick and choose. The formal provisions of the presentation clause would seem to be observed by this device.

Laurence Tribe also has observed that the measure is constitutional. He recently wrote,

The most promising line item veto idea by far is . . . 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 effected simply, and with no real constitutional difficulty, by a temporary alteration in congressional rules regarding the enrolling and presentation of bills.

Courts construing the Rules Clause of Article I, Sec 5 have interpreted it in expansive terms, and I have little doubt that the sort of individual presentation envisioned by such a rules change would fall within Congress' broad authority.

The distinguished Senator from Delaware, Senator BIDEN, during his tenure as chairman of the Senate Judiciary Committee wrote extensive additional views in a committee report on a constitutional line-item veto. He wrote about a separate enrollment substitute he offered:

Under the separate enrollment process instituted by the statutory line-item veto, the items of appropriation presented to the President would not be passed according to routine lawmaking procedures. Congress would vote on the original appropriations bill, but would not vote again on the separately enrolled bills presented to the President. The absence of a second vote on the individual items of appropriation has raised questions of constitutionality. For the following reasons, such concerns are unfounded.

1. No change in congressional authority:

Each House of Congress has the power to make and amend the rules governing its internal procedures. And, of course, Congress has complete control over the content of the legislation it passes. Thus, the decisions to initiate the process of separate enrollment, to terminate the process through passage of a subsequent statute, to pass a given appropriations bill, and to establish the sections and paragraphs of that bill, are all fully within Congress' discretion and control.

A requirement that Congress again pass each separately enrolled item would be only a formal refinement—not a substantive one. It would not prevent power from being shifted from Congress to the President, because under the statutory line-item veto Congress will retain the full extent of its legislative power. Nor would it serve to shield Congress from the process of separate enrollment, because Congress will retain the discretion to terminate that process.

2. House Rule XLIX: Statutory Limit on Public Debt.

Rule XLIX of the House of Representatives empowers the enrolling clerk of the House to prepare a joint resolution raising the debt ceiling when Congress adopts a concurrent resolution on the budget exceeding the statutory limit on the public debt.

This procedure, which has been in existence since 1979, provides a clear precedent for the separate enrollment of items of appropriation. The House never votes on the joint resolution. Nonetheless, the House is "deemed" to have voted on the resolution because of its vote on the concurrent resolution. House Rule XLIX states, in part:

The vote by which the conference report on the concurrent resolution in the budget was agreed to in the House * * * shall be deemed to have been a vote in favor of such joint resolution upon final passage in the House of Representatives.

The committee report continues:

House Rule XLIX has not been found unconstitutional because of its modification of routine lawmaking procedures. The joint resolution engrossed by the clerk is transmittal to the Senate for further action, and then presented to the President for his signature. This process has been in effect for a decade. Despite the absence of a separate vote by the House on the joint resolution, there have been no constitutional challenges.

Mr. President, I would like to quote from an editorial written in the Los Angeles Times on July 23, 1985.

Growing support for the line-item veto in the Senate and the House is a reflection of the Pogo principle in contemporary politics, "we have met the enemy, and they is us." The budget process is in shambles, the deficit is out of control * * *

Mind you, Mr. President, this was written in 1985.

The budget process is in shambles, the deficit is out of control, and Congress is the problem. Our systems of checks and balances which functions adequately, even brilliantly in most areas, is out of kilter in the area of the budget. Congress has too much power over the purse and the President has too little. The line-item veto is, while neither the miracle cure that the proponents promised nor the disaster that the opponents feared, is one of the few available tools to redress imbalance. The fundamental issue is fiscal responsibility, and it has little to do with partisan politics or the current budget wars that pit a Republican President against a Democratic House, and even against his own Republican Senate. A larger principle and a longer perspective are at stake. When 100 Senators and 435 Representatives have primary responsibility for the budget, no one is adequately responsible. The traditional veto power of the President, which worked well until the 1970's, is still sufficient to keep most other legislation in check. But it is too unwieldy to impose significant discipline on the appropriations process. In 1983, and 1984, the 98th Congress produced 623 bills that were sent to the White House and signed into law. Only 27 were appropriations bills. But they made up in size and scope for what they lacked in number, dispensing hundreds of billions across the entire range of a myriad of Federal programs.

Very occasionally, Presidents have been bold enough to veto one or another of these behemoth appropriations bills because they have objected to particular provisions. More often, the massive nature of the modern appropriations process has overwhelmed the executive veto power, and the President acquiesces in bills that by any standards are badly flawed. By giving the President a stronger role, the line-item veto would instill a new and needed measure of Presidential accountability and Federal spending, and reduce the excesses of a congressional process that too readily focuses on individual districts and separate interests, not the national interest. In any event, the line-item veto is hardly a riverboat gamble. Forty-three States have already given a similar power to their Governors who universally regard it as an indispensable tool of budget control, at least until they become U.S. Senators.

Presidents since Grant have sought the line-item veto, but until now Congress has refused to cede the power, and with considerable justification because earlier Congresses seldom brought in budgets that were unbalanced. The Congress has only itself to blame for the irresistible pressure to yield some of its power to the President. We gave that to the Treasury with massive tax cuts and huge increases in military spending in the past 4 years and the country will continue to sink into an irreversible morass of deficits unless corrective action is taken. Everybody talks about balancing the budget, but nobody is currently doing much about it. Congress claims it is the President's fault for failing to use the veto: "Stop us before we spend again." The President pleads, in turn, that he fervently detests deficits but does not have the power to fight them fully. So let us give it to him and help him live up to his own rhetoric, and let us see to it that Congress will be looking over its shoulders as it packages and passes future appropriations bills.

Mr. President, that is from a column, written in the Wall Street Journal on July 23, 1985, by Senator EDWARD M. KENNEDY. I agree with everything Sen-

ator KENNEDY says. If he was worried about the debt and deficit being out of control in 1985, it has increased by trillions of dollars since then. I look forward to working with him and other Members on the other side of the aisle who, back in 1985, supported a motion to invoke cloture on the then separate enrollment bill that was brought up at that time.

Mr. President, I am also going to address the issue of the separate enrollment and how many extra items that would require for the President's signature. Mr. President, this is the Commerce, State, and Justice appropriations bill. It was the longest appropriations bill that was passed last year. As you can see, it is about an inch thick, and it is in fairly small print. Of all of the 13 appropriations bills, this is the longest. Using modern computers which, I am happy to say, our enrolling clerks in the Senate and the House have access to, it took approximately 4 hours to take this bill, which was the longest of the appropriations bills, and convert it into this, which is 500 different bills.

Mr. President, there is a difference between these two. But the fact is that the statements that are made about a Mack truck that will be required to take it down to the White House, et cetera, et cetera, do not work.

I also suggest, when you are looking at this, Mr. President, that there is probably good opportunity that about this much of it would probably never appear, never have to be enrolled if the line-item veto were a threat because there are probably about this many appropriations that were added that were unnecessary, wasteful, and, in some cases, outrageous. So when we are talking about the huge difference that it would make, as far as enrolled items are concerned, as opposed to a regular appropriations bill, yes, there is a difference.

If there is a difference between these two and taking the time for the President of the United States to sign 500 bills, I would ask how much would we save in tens of billions of dollars of wasteful and unnecessary spending, and would it be worth that additional time? I think the American people would argue that if it takes a little extra time to have a bill signed separately and it would save billions of dollars, they would opt for the latter.

Mr. President, finally, I say—and I do not want to take too much time because the time is equally divided on both sides—this afternoon we will be in formal debate on S. 4. I expect the majority leader to come forward with a substitute to S. 4, which is a compromise that we have agreed to, and there are certain aspects of it that I think improve the bill. There are also aspects of it which I think are negotiable.

We know where the crisis will lie. Sometime on Wednesday or Thursday, a motion to invoke cloture will be

voted on, which, as we all know, requires 60 votes. I do not know how that will turn out. I am confident that, of the 54 Members on this side of the aisle, they will all vote in favor to cut off debate, even if one or two of them may oppose the bill in its present form. I look forward to negotiating with them and working with them. But the fact is, to not even have this issue come to a final vote before the Senate would be a very serious mistake.

I also want to point out that the construction of the issue, again, lies not on whether it is separate enrollment, not whether some new entitlement programs are covered and which ones, not whether targeted tax benefits is covered or not; it will boil down to one single issue, have no doubt about it, and that is whether we would have a two-thirds vote on the part of both bodies in order to override the President's veto—that is what 43 Governors have and that is what the constitutional meaning of veto is—or whether we will have a majority vote of one House, sufficient to override the President's veto, which will then make the very meaning and intent of trying to impose some kind of fiscal discipline on the entire U.S. Government a sham and a charade.

I know that my partner, the Senator from Indiana [Mr. COATS], feels as I do, that we would be willing to negotiate any other aspect of this legislation, because there is no legislation which cannot be improved. But there is one nonnegotiable issue. It is nonnegotiable with the other body, which voted overwhelmingly in favor of this legislation and against a watered-down version of it, and that is the two-thirds version.

For the record, by a vote of 294 to 134, with 70 members of the Democratic Party voting "yes," this version of the bill was passed, with a two-thirds majority required. There was a Stenholm expedited rescission substitute that was defeated by 266 to 156.

I believe that is the will of the American people. They are fed up. They are tired of pork, tired of wasteful and outrageous expenditures of their tax dollars. I believe that this issue is a defining issue if we are ever going to achieve that goal.

Mr. President, I suggest the absence of a quorum, and I ask unanimous consent that the time be equally divided on both sides.

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

The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. GRASSLEY). Without objection, it is so ordered.

Mr. REID. Mr. President, we are here before the U.S. Senate and the American public today to talk about a line-item veto. Mr. President, we have

talked recently about a lot of issues that some people believe are gimmicks. We know, for example, that we, the Congress of the United States, have the power to more evenly match the money that we receive, the money that we spend, in effect, to do a better job of balancing the budget.

Another one of the gimmicks that is floating around is term limits. That is to arbitrarily have a cutoff date as to how many years a person can serve in the House or the Senate. Mr. President, we know that the most important and effective term limit is the ballot box.

On November 8, we had a remarkable term limit go into effect. I was speaking to one of my friends in the House of Representatives just the other day. This man is beginning his third term, and out of 435 Members of Congress, I think he is number 180. He is way below half. I have served 8 years in the Senate. I am 56th, I believe, in seniority. So I am almost in the top half, having been here only 8 years. There is a hue and cry to do things with what we call quick fixes; to do things that sound good, to divert attention from our solving problems in the way that our Founding Fathers established in the Constitution as to how they should be handled.

Let us talk, Mr. President, about the line-item veto. The Articles of Confederation, which was an original document for a very short period of time that directed this country, had a form of line-item veto in it. The man who drew up the Constitution of the United States determined that was something that was not good and should not be in the Constitution.

The effort to have a line-item veto is not something that was first devised by President Reagan, who was the first to bring it up in recent memory. No, that is not the case. The fact is, the line-item veto comes up about every 20 years and has since this country was formed.

Why has it not passed up to this point? It has not passed because it is a bad idea. It is a bad idea, especially bad for States that are sparsely populated.

Mr. President, if, in fact, the President wanted to line-item veto something, it would make good sense, and I am sure his advisers would indicate, that the President likely should not go after the State of California, the States of New York, Texas, or Florida, but rather should go after South Dakota, Wyoming, Nevada, Idaho, States with small congressional delegations who do not have the ability to fight back with strength, with numbers.

The line-item veto is not opposed by liberals. The line-item veto, Mr. President, is opposed by some of the most outstanding conservatives in the country. For example, James Kilpatrick, who is certainly a bona fide conservative, has written on numerous occasions about the line-item veto, and has said, among other things:

There is, indeed, something ridiculous, perhaps hypocritical is a better word, in the

current fit of hand-wringing over the deficit. All the old demands for a quick fix are surfacing once more. The line-item veto, in its pure or impossible form, would not work at the Federal level. At least it would not work as effectively as its advocates suppose. There are no line items for Social Security benefits, food stamps, crop subsidies, interest on the national debt, and other untouchable programs.

Mr. President, we not only have James Kilpatrick, but two qualified conservatives who wrote an article together—they have written many articles, but I am going to refer to one—Bruce Fein and William Bradford Reynolds. Bruce Fein is certainly, by all accounts, one of the leading constitutional scholars in America today. People may not agree with his results all the time, but liberals, moderates, and conservatives agree that he is a fine constitutional scholar. And William Bradford Reynolds, of course, is a partner in a large D.C. law firm and he worked for President Reagan as an assistant attorney general. He was the Assistant Attorney General for Civil Rights during the Reagan administration.

What these two men have said is, "The short answer is that the line-item veto is unconstitutional." These gentlemen go on at some length, Mr. President, to point out the historical arguments behind the line-item veto. And if you read anything about the line-item veto, you realize that the Founding Fathers consciously kept out of the Constitution any ability of the President to interfere with the ability of the Congress, especially the House of Representatives, to do anything with the purse.

The historical argument is concluded by another professor that they talk about, largely by negative inference, that the veto authority in these settings did not entirely foreclose the exercise of the line-item veto. They debunked that. They say that certainly is not the case.

Then, Mr. President, they go on to outline why the Founding Fathers did not want anything to do with the line-item veto. And it goes back to the battles that were held in England over the centuries dealing with the power of the King and the power of the Parliament. As you know, during those battles, wars were fought. And what the Founding Fathers did not want to have happen is that, after the Congress set a standard as to spending, as to money, they did not want the President to be able to go in and willy-nilly nitpick those moneys.

In fact, when the Colonies were here, the Founding Fathers knew what King George and other kings had done to the Colonies. The King of England had the power, after the Colonies passed a law, to repeal it. The Founding Fathers wanted no part of that.

So, the Founding Fathers reacted, according to Reynolds and Bruce Fein, reacted strongly to make sure that

there was nothing to allow the President to overrule the actions of the Congress.

And after the constitutional fathers met and deliberated for long periods of time, what emerged was a veto power. They were very restrictive in what power the President of the United States should have.

Mr. President, that was based, I repeat, on centuries of dealing with Parliament and the King and decade after decade of dealing with the Colonies and the King of England. And what emerged is set forth in article I, section 7, clause 2 of the Constitution.

A look at the genesis of this, Mr. President, is that during the course of the debates in the Constitutional Convention, it clearly shows and, in fact, disabuses any notion that it was intended as a line-item veto authority to the President's power under clause 2. The veto power in explicit terms applied to "any enrolled bill," and the President's constitutional authority was solely to approve it or not. The Constitution does not suggest that the President may approve part of a bill or indicate any Presidential prerogative to alter or revise the bill presented.

In fact, to put it another way, the Congress acts as the author of the legislation, the bill, and the President as the publisher. Absent, as indicated by Fein and Reynolds, an extraordinary consensus in Congress, the President retains the ultimate authority to decide, in effect, whether to publish the law. He does not have to. That is the key.

That is what I said when I first came on this floor today. We now have in our constitutional framework the ability of the President to veto a bill if he does not like it. We have had Presidents who have been courageous and have done that.

The most successful in exercising the veto, according to Fein and Reynolds, was Rutherford B. Hayes. He did not like these unrelated riders. We do it now. But he did not like it. He wanted legislation to be germane. As an effort to prove his point, he kept vetoing appropriations bills, and it paid off. It paid off for him, Mr. President, because Congress usually is unwilling to take the heat of being responsible for having something that is ridiculous in an appropriations bill. So Rutherford B. Hayes was extremely good in what he did, in chastening Congress.

But also take a more recent example. President Bush. I am a member of the Appropriations Committee. We passed appropriations bills. There was one where President Bush said, if you put—this is very controversial. Whether you are pro-life pro-choice, it is very controversial.

Whether we agree or disagree with President Bush, he said, "You put abortion language in that appropriations bill, and I will veto it." He dared Congress to do that. Congress did it. He accepted their dare, and he vetoed. It was late in the session. People said he would never do that. Well, he did it.

Who prevailed? The President of the United States prevailed. That was taken out by the Congress and sent to him in a form he wanted. The President today has the right to veto appropriations bills. We have 13 appropriations bills. If there is something in them that he does not like, he can veto the whole bill.

I believe if there is as much bad in those appropriations bills, that is what he should do and not violate the Constitution. I believe that, as with President Bush, such a response, according to Fein and Reynolds, is far more likely to produce the desired legislation stripped of objectionable riders than would be the unconstitutional and wholly irresponsible exercise of a line-item veto, which would most certainly not be upheld in a court.

So we have talked about conservatives. Certainly Kilpatrick is a conservative. Certainly Fein is a conservative. Certainly Reynolds is a conservative. I do not think anyone would dispute that George Will is a conservative.

George Will, Mr. President, is also opposed to the line-item veto. He has written about it on a number of occasions, but most recently February of this year. George Will, as we all know, has a great way of putting things on paper. Certainly, his ability to put things on paper to him is much better than his spoken word.

This article he wrote is outstanding because what he indicates is that the State of North Carolina refused to ratify the Constitution until we had the Bill of Rights. Their State constitution has never given the Governor any veto power. He goes on to say that we should follow that example. They should carry the threshold question—the Congress—of whether the line-item veto merely serves conservative values. He goes on to say that it does not. I am not going to belabor the point, Mr. President, other than to say that I think it is clear that conservative scholars, conservative pundits, conservative writers, believe the line-item veto—I should not say all of them, but a significant number, and certainly the respected scholars I have mentioned. I could have gotten more of the writers that I have mentioned. I could have gotten more, but I think certainly it is enough.

Will ends by saying the intended consequence of a line-item veto is to deter spending, but lacks a national rationale. However, the unintended consequence might be to make Congress even more conscienceless than it is about voting such spending. Indeed, the line-item veto might result in increased spending if Presidents agreed not to exercise it on legislative projects in exchange for legislative support on other matters. The Nation should not be overeager to do what liberty-loving North Carolina has been so reluctant to do.

My point as far as this phase of my presentation, Mr. President, is that the line-item veto is not being opposed by

a bunch of Northeastern liberals, as is referred to so often by some of my friends in Nevada, but rather some of the more thoughtful opposition to the line-item veto comes from conservatives throughout this country, not the least of which are George Will, James Kilpatrick, Bruce Fein, and William Bradford Reynolds.

It is not just opposition from the conservatives. There are many others who oppose the line-item veto. For example, Mr. President, there is an excellent column that was written, again in February of this year, by Cokie and Stephen Roberts in the Baltimore Sun. I think it does a good job of talking about why the line-item veto is an ineffective way to achieve what we need to achieve, and that is to do a better job of matching our income with our outgo.

It is pretty clear that, according to Roberts, the Founders left no doubt that Congress, particularly the House of Representatives, elected every 2 years, should control the purse. I do not think there are many who would dispute that. They go on to say:

We think it is pretty clear that the line-item veto would shift power down Pennsylvania Avenue from Capitol Hill to the White House. That is why Executives—Presidents and Governors of both parties like it. Taking some of the purse string out of the body closest to the people might not be so bad if it resulted in a real ratio of red ink. It won't. A swipe at a highway here, a dam here, even a space station or super collider won't make a significant dent in the deficit.

That is debatable.

They go on to say that a President could line-item the entire space operation, the entire highway program, all agriculture subsidies, all education subsidies, eliminate every item in what is called the discretionary budget, including the entire U.S. Congress and its staff, all the Federal courts and prisons, wipe out everything the Government pays for except defense, Social Security, Medicare and Medicaid, and interest on the national deficit, and there would still be a budget deficit.

But, Mr. President, in the legislation that is before the Congress, or certainly will be—the amendment that I have seen I understood will be offered—the President will be unable to line-item anything in these four or five big programs. This is why, representing a small State, I am opposed to the line-item veto.

They go on to say: And think of the political mischief. The President wants to punish a State that did not support him in the last election. Easy. Just line out programs of benefit to Kansas, for example. A President, eager to please his friends and punish his enemies, could happily lose the veto and never lose anything.

As it stands now, Presidents often swallow something they do not like in order to get something else they like in legislation, and that means they have

to share power, that they cannot control spending singlehandedly. That is just fine with us, and I submit, Mr. President, that is just fine with the Founding Fathers, because that is what they intended.

Carrying forward with my point that the opposition to the line-item veto does not come from the conservatives or the moderates, but also from the liberals, the Las Vegas Review Journal, a paper in Las Vegas, had an article which ran over the weekend by Joe Sobran—who writes a column from Washington, DC—and he says, among other things:

The drive to amend the Constitution is really a way of passing the buck. Like a man who blames his wife for his own infidelity, the Republicans are saying in effect that the fault for their own inability lies in the Constitution.

That is not the way it is, Mr. President. I believe that the line-item veto, as it is presented here, is a ploy, a dodge, a gimmick. And I believe the case is extremely overstated. We know that 46 percent of every dollar we spend is entitlements. We know that about 14 or 15 percent of what we spend is interest on the debt. That is 60 percent. We know that 20 percent, approximately, is for defense. And usually those defense numbers come to Congress from the President—not usually, they do come to Congress from the President—so the President is not likely to hack away at his own budget that he has presented. Twenty percent of the budget is domestic discretionary spending.

My fellow Senators should understand, as should the American public, that the amount of discretionary domestic spending has dropped significantly and it is dropping every time we appropriate moneys. What is discretionary domestic spending? It deals with the National Institutes of Health. It deals with construction of highways, bridges, and dams. It deals with our parks—Lake Mead recreation area, Yellowstone, and Yosemite. It deals with education. That is what discretionary domestic spending is. The only area the President can line-item veto is discretionary domestic spending.

Now, what we have before us is a moving target. We at first were told we will go with S. 4. Then we were told we are going to go with the McCain balanced budget procedure. Then we were told a compromise had been worked out with Senators EXON and DOMENICI. When there was general acceptance of that proposal on this side of the aisle, it was determined—because we supported it—it must not be good and, therefore, it went back to the drawing board. I think we do not want to solve these problems as much as talk about them.

I think the legislation suggested by Senators DOMENICI and EXON, the chairman of the Budget Committee and the ranking member of the Budget Committee—two men who have had a great deal of experience dealing with money matters relating to this Govern-

ment—I think it was a good compromise. It did not give away constitutional prerogatives to 1600 Pennsylvania Avenue. It was a good compromise, something I could support.

But now we have something different. Now we have a process where, when an appropriations bill passes, it would be broken up into hundreds of line items. This is absolutely unconstitutional. It just will not sail. We know that.

There have been a number of different things written on this. For example, I see the Presiding Officer here, the senior Senator from the State of Iowa. The Iowa Law Review says:

Arguably, the bicameral process is violated if the enrolling clerk presents proposed legislation to the President in a form not approved of by the House and the Senate. The presentment clauses, therefore, may require that a bill is presented to the President, for approval or veto, be in the form in which the bill passed through both Houses. Otherwise, such a bill is unconstitutional.

So, in effect, if we pass a bill and we sent it to the enrolling clerk and the enrollment clerk breaks this up into different sections, it is unconstitutional. We cannot send something to the President and have somebody else chop it up for us. If we want 400 separate appropriations bills, then we have to present them to the President. We cannot have an enrolling clerk do that. It is clearly unconstitutional, and many scholars have written about this, but the most recent, I think, and one of the most erudite is that from the Iowa Law Review.

It goes on to say:

Put differently, Congress cannot delegate to an enrolling officer in either House the legislative function of deciding how many appropriations bills shall be presented to the President, or the form those bills shall take.

The only thing that can go to the President is what we pass in the form that we pass it. Otherwise, you can imagine the mischief that could take place.

So now this moving target has a bill that is going to break up the 13 appropriations bills into thousands of different bills—not hundreds, but thousands of different bills. I think that that is certainly unwise and something that we should not do.

Reading from a Harvard Law Review article:

Item veto advocates may be overstating their case * * * much of the budget is uncontrollable.

About 60 to 80 percent—if we include defense, it is 80 percent. If we do not include defense, it is 60 percent.

* * * of the budget is "nondiscretionary," and, as such, is not even addressed by the appropriations process. Of the remaining 40 percent that is considered discretionary spending, nearly half is appropriated for defense expenditures.

As I outlined earlier.

The congressional "pork barrel" spending so commonly criticized thus only constitutes approximately 20 percent of the budget. Yet, it would be difficult to cut a substantial portion of this spending because much of this

money funds worthwhile projects, such as highway repair or cancer research. These figures demonstrate that even a President armed with the line-item veto could hardly spare the country from outrageous debt overnight * * * A determined President using the line-item veto might be able to cut * * * 1 percent * * * of the total annual budget.

And that is a worthwhile goal, if it does not violate the constitutional prerogatives established by our Founding Fathers.

Mr. President, we had published last week "The Senate of the Roman Republic." You will recall over the last Congress, the senior Senator from West Virginia gave a number of speeches dealing with the line-item veto and the loss of power of the Roman Empire indicating that when you give away power that the legislative branch has to the Executive, as they ultimately did with the great Caesar, it destroys a country. And that is what he wrote about. His opening statement, I think, is worth reading, paragraph 2:

In search of antidotes for this fast-spreading fiscal melanoma of suffocating deficits and debts, the budget medicine men have once again begun their annual pilgrimage to the shrine of Saint Line-Item Veto, to worship at the altar of fool's gold, quake remedies—such as enhanced rescission, line-item veto, and other graven images—which, if adopted, would give rise to unwarranted expectations and possibly raise serious constitutional questions involving separation of powers, checks and balances, and control of the national purse * * *.

On the other hand, Mr. President, some of these people inside Congress, and outside Congress, who constantly press for the line-item veto, enhanced rescissions or other quack nostrums know, or ought to know, that these are nothing more than placebos, spurious magic incantations, witch's brew, and various brands of snake oil remedies.

Skipping a paragraph or two:

Mr. President, the deficit problem is not caused by congressional appropriations. Since 1945, and through last year, beginning with Truman, and following with Eisenhower, Kennedy, Johnson, Nixon, Ford, Carter, Reagan and Bush, the total appropriations—supplementals, regular, and deficiencies—have amounted to about \$200,848,154,902 less than the totality of all the budget requests that these nine Presidents have submitted during all those years.

So, in short, Mr. President, the Congress has the terrible reputation of being spendthrifts, spending all this money we do not have. Every year we have come in with less money through Democratic Presidents and Republican Presidents than they have submitted to us. I think that says a lot.

Just like the battle that took place with the balanced budget amendment, that was an effort to balance the budget using Social Security moneys. We need not change the Constitution to balance the budget. We have the authority to do that. The President today has the authority to veto appropriations bills. If there is spending that is out of line in those bills, he has the right and, I believe, the obligation if it is something that is not in the best interest of the people of this country to veto it. If it is something that is as

outrageous as some people would lead us to believe, his veto will be upheld and we would send him back an appropriations bill that did not have that information in it, did not have that request in it.

For example, there was a lot of public outcry because in an agriculture appropriations bill there was a provision in it a few years ago that appropriated \$500,000 to the State of North Dakota to commemorate, to redo—I do not know what they were going to do with the money—the home of Lawrence Welk. The American people thought it was outrageous. The President had the right if he wanted to veto that agriculture appropriations bill.

Had that bill come back here, that would have been taken out in a split second. The fact of the matter is, it was taken out in the next year in a rescission and the money was never spent, as outrageous as it was. But the President has the power today to veto outrageous expenditures in appropriations bills. We do not need to pass a new law to change the balance of power, to mess with the Constitution, to have the President veto bills. We have 13 appropriations bills.

If every one of them has pork or something he does not like, he can vote to veto either one of them and go to the American public and say the reason I did that was because there was an appropriation here for Lawrence Welk's home in North Dakota, or whatever else is outlandish in that appropriations bill, and 99 times out of 100, his veto would be upheld.

Now, for us to say, well, he is not going to do it because it is a big appropriations bill and it would just cause friction between the two branches, I would rather have a little more friction between the two branches than to give up our power to the executive branch.

Remember, our Founding Fathers, in setting up the separate but equal branches of Government—the legislative, executive, and judicial—set them up so there would be friction between the branches; we would have to fight for power. That is what they wanted. They wanted us to fight for prerogative, with the legislative, executive, and judicial branches of Government. We do not need a new bill passed. We do not need to amend the Constitution for a line-item veto. The President can veto any one of the appropriations bills, if he wants, or all 13 of them. Had we had a little more courage in the past by Presidents, there would be a lot less bad stuff in those bills. I again use the example of President Bush. You may not agree with what he did, but on the abortion issue he said, "You put that in there, I am going to veto it." He vetoed it, and he won. The Executive usually always wins because it is hard to override a Presidential veto.

Some have described the line-item veto as a panacea for congressional misspending. We know that is not the case. Others have described it as result-

ing from a profound shift in the balance of powers as we know it.

I say the Senate had an opportunity—I hope we still do—to take up and consider a line-item veto that would allow us to impose greater checks on our spending process without upsetting the balance of power between the executive and legislative branches of Government. That is why I like the Domenici-Exon approach. It did not hack away from the power of the executive branch but yet it gave the President more ability than he now has to look at matters that are wrong in our spending. I think that is what we should have done. I hope we can still do it. And while we are talking about having this line-item veto, I hope, Mr. President, that we do not lose sight of the fact we should take a look at taxes.

We have heard described lots of times, with the 13 appropriations bills, the bad parts of those appropriations bills, and the people who complain have something to complain about. There were things in those appropriations bills such that I believe the President should have vetoed the whole bill. If he did that more often, we would have better appropriations bills.

However, the one thing we have not talked about is what about the bills that come from the Finance Committee? What about these bills that have little tax shelters, tax dodges, and tax gimmicks for corporations? We have bills that are reported out of the Finance Committee where they take care of one corporation, they take care of one individual, one sector of our economy at the expense of another. If we are going to start having all of these line-item vetoes, I believe we should have a line-item veto for tax bills.

A bill comes out of the Finance Committee every year, a big bill, and in it usually are mischievous things, in this Senator's opinion, that are put in by members of the Finance Committee, put in because of pressure by special-interest groups, pressure by lobbyists, pressure from people at home, industries at home that are at the sacrifice of other parts of our economy. I think we should be able to line item that. I support that.

Take the Domenici-Exon approach and put in there the additional ability that the President would have to take out various items of that tax bill. I think that would be good.

I hope we are still going to have the opportunity to consider such legislation. The minority leader has indicated he is going to prepare a substitute. I am told and I believe it will be comparable to the Domenici-Exon approach except it will have in it more ability of the President to look at line items in bills that come from the Finance Committee. I hope that is the case.

It is my understanding that we have moved away from consideration of either of the line-item bills that were reported out of committee. Therefore, I hope the minority leader will move for-

ward with an enhanced version of the Exon and Domenici legislation.

What we are going to take up, in my opinion, is an enormous bureaucratic nightmare as indicated by the Iowa Law Review article and other things that I have now in the RECORD. It would certainly be unconstitutional, in addition to being unworkable. The so-called line-item veto bill supported by some now I believe ought to be called the Paperwork Enhancement Act. This is directly 2 weeks following our passage of the Paperwork Reduction Act. Now we will just turn right around and increase paperwork because that is what this would do.

It is most disappointing that we are passing up an opportunity today of acting on a bill that would assure widespread support on both sides of the aisle. The Domenici version of the legislation we could have passed last Friday. We would be out of here. But some people do not want results. They want issues to talk about, gimmicks. I think that is too bad.

As I have indicated, the most popular of the two earlier measures was the legislation put together by two qualified deficit hawks, DOMENICI and EXON. DOMENICI and EXON have earned the reputation, as I said, of being two of the most outspoken, toughest deficit hawks in the Senate. The measure that they have drafted and reported out of committee made great strides toward eliminating some of the less than meritorious gains. It provided a procedure that would have allowed us to eliminate wasteful spending without undermining the constitutional duties imposed on the legislative and executive branches of Government.

It was a commonsense proposal that would have eliminated spurious tax spending of taxpayers' dollars. In effect, what it did, within 10 days of the enactment of the appropriations bill or revenue bill, the President could propose a reduction or repeal of new appropriations, and as I have indicated, I hope that will be built upon. With the Daschle proposal, the President could also repeal targeted tax benefits.

Under the Domenici-Exon legislation, the rescission bill, which is limited to the President's proposal, would be introduced in Congress. Within 10 days, Congress would have to vote on that bill. The floor rules are very simple. No amendments are allowed in the President's rescission bill. Motions to strike would be allowed. If Congress passes the bill and the President signs it into law, you would in effect have a lockbox, providing any savings, any of these savings would be devoted to the deficit by lowering the discretionary caps on spending.

The significance of this measure is that it provides for greater rescission authority without placing unbridled authority on the President, which the Founding Fathers and others have guarded against since the days of the Constitution.

The New York Times, in a recent editorial, made the case as to why we ought to consider the Domenici legislation. Its editorial about a week ago said:

One version of the McCain-Coats legislation would dangerously increase the President's already formidable power. The other, sponsored by Senator Pete Domenici, would give the President more power than he has now, counterbalanced by reasonable congressional checks. The Senate should go on with Mr. Domenici.

Unfortunately, we are not doing that. Unfortunately, the matter we are dealing with will shatter the separation of powers doctrine, so carefully crafted by our Founding Fathers and so tightly guarded these past 200-plus years. Even if we were to accept this as a necessity to achieve the greater good, the line-item veto is rendered almost meaningless by the economic reality of our current budget.

As I have indicated before, we need to get spending under control. Mr. President, 46 percent of every dollar we spend is for entitlements; 14 to 15 percent is for interest on debt, that is 60 percent; another 20 percent is for defense.

The threshold question in consideration of any line-item veto is the extent the constitutional doctrine of separation of powers will be disturbed. We know the Founding Fathers went to a great deal of effort to make sure that was set forth very clearly in article I of the U.S. Constitution. I believe we all want the President to have more authority to get rid of matters that should not be in appropriations bills. Most of us agree that he, the President, should have the authority of a line-item veto for taxing matters also that are harmful to the country, but we need to do that within the confines of the Constitution. The legislation that either has or will be offered setting forth the enrollment procedures will not do that.

We should always realize the fallback position that we have is one that is in the Constitution and that is the President now has the authority to veto matters dealing with appropriations that are bad for the country. He cannot veto a little piece of the bill, he has to veto the whole bill. Why should he not be able to do that? Why should he not do that? It has been done in the past, and I use the example of President Rutherford B. Hayes. It was difficult. It caused the country some concern. But he prevailed.

So I respectfully submit that no matter how well-intentioned those are who are seeking to pass this legislation, recognizing the sincerity of the chief sponsor of the bill, the senior Senator from Arizona, and how diligently he has worked on spending matters during the time he has been in the House and Senate, I again respectfully submit this is the wrong way to go. I believe we should adopt the Domenici approach and do what we can to make sure this well-intentioned legislation,

offered by my friend from Arizona, is defeated.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. McCAIN. Mr. President, I note with interest that the Senator from Nevada, who voted against the balanced budget amendment, now opposes a meaningful line-item veto, so I was interested in hearing him talk about how spending is out of control. I would be interested in hearing any of his proposals for bringing spending under control.

I also remind him, if he could not find anything that the Founding Fathers said concerning expenditures and revenues, I would refer him to a letter from Thomas Jefferson to John Tyler, November 26, 1798. Thomas Jefferson said:

I wish it were possible to obtain a single amendment to our Constitution. I would be willing to depend on that alone for the reduction of the administration of our Government to the genuine principles of its Constitution. I mean an article taking from the Federal Government the power of borrowing.

That was Thomas Jefferson's view.

I say to my friend from Nevada—he is my friend—in all due respect, if he thinks the status quo is acceptable to the people of Arizona or Nevada or anybody else in this country, I think he is wrong. If he thinks one single majority vote in either House is really the meaning of veto, then I do not believe he is in consonance with the 43 States in this country out of 50 where it takes a two-thirds majority.

The meaning of the word "veto" is clearly defined in the Constitution as requiring a two-thirds majority. But I say to my friend from Nevada, in all due respect, where is it that the Senator from Nevada wants to turn to get some fiscal discipline in this country? I would like to hear his proposal. I reject his proposal that it would be a single majority vote in either House, since it took a majority vote in two Houses to put the pork in. The only way you are going to get it out is through a two-thirds vote of both Houses, in my view; the threat of that.

As far as his argument goes that the President of the United States should veto 1 of the 13 major appropriations bills, the Senator from Nevada and I were both in the other body when we were doing continuing resolutions, when everything was thrown into one appropriations bill—every single one was thrown into one massive appropriations bill. Did the Senator from Nevada expect him to veto that? Of the 13 appropriations bills the Senator from Nevada knows there are billions of dollars in each one and if the President vetoes an entire bill he shuts down the Government; he deprives the people of this country of vitally needed programs. There is not a single appropriations bill that comes to the President's desk that has billions of dollars in spending in it that, if the President vetoes it, will not deprive the people of this country of much-needed Government services.

The only way the President of the United States can effectively do what 43 Governors in this country do is selectively veto appropriations that are not needed and are unwanted and are wasteful.

At this point of the debate I am not going to tell the Senator from Nevada about the outrageous spending going on in this country because I will refrain from doing so for some time, but it is well known to the American people. If the Senator from Nevada believes that is acceptable, that is fine with me. But when 83 percent of the American people support a line-item veto, when the overwhelming majority of the American people are sick and tired—sick and tired—of running a \$4.6 trillion debt, then it is time to act. If there is any living proof that the Congress is unable to discipline itself it is the fact that we do have a \$4.6 trillion debt. In 1974 that debt was in hundreds of billions; now it is in trillions with no end in sight.

If we do not do something—the Senator from Nevada rejects the balanced budget amendment. "That is not constitutional." He rejects my line-item veto. "That is not constitutional." I ask my friend from Nevada, what does he want to do? What is it that needs to be done to bring this undisciplined, outrageous fiscal behavior under control? I would be very interested in hearing that.

I know of no expert who believes that a single majority vote by one House is going to do the job.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, I believe there are a number of things we need to do. The first thing we need to do is approach the problems head on. As I indicated during the debate on the balanced budget amendment, why do we not balance the budget the hard way, the honest way, and that is do it without using the surplus for Social Security? As has been indicated and was indicated in here last week by one of the Senators from North Dakota, the fact of the matter is you cannot use the surplus to retire the debt and also use it for Social Security. It can only be used for one. It cannot be used for both places because you cannot spend money twice, and that is what we try to do around here.

I believe we should have a balanced budget, but we should do it the hard way.

My friend from Arizona said, "What needs to be done?" There are a lot of things that need to be done. First of all, with the line-item veto, I believe—and this has not been responded to, of course—as I read from the articles, with a line-item veto we may be able to save 1 percent of the money—1 percent. Mr. President, 99 percent we could not, 1 percent we could. When you have a budget of \$1.5 trillion that is a worthy

goal. There is no reason you should not try to save 1 percent.

But I think we should do that with a procedure that allows the Congress not to give its power to the executive branch of Government. And I do not think the American public is concerned about two-thirds or a simple majority, but rather that we do it. I am willing to support a veto that the President has, as long as it does not give up our constitutional prerogative.

I also think that one of the things that needs to be done is deal with the high cost of health care. We have done nothing about that problem. We have done nothing. I recognize—certainly accept—that the legislation that was attempted last year was too broad, we tried to do too much. We should have narrowed our scope and hopefully brought down to Earth some of the health costs that were going up every year. This year, health care costs will go up over \$100 billion. The No. 1 item that is driving State, local, and Federal deficits is health care costs. It is really hurting us. We have to do something to get that under control. I do not see anything on the agenda this year to do anything about that.

What else needs to be done? I am watching very closely what is going on in the House this week. They are going to come up with welfare reform. I think that is important. We need to do something on welfare reform. I believe we can save huge amounts of money with meaningful welfare reform.

One of the areas we need to look at is immigration reform. We can save lots of money.

The costs to the States of California, Nevada, even though we are not a border State, suffer significantly because of the illegal immigration, and Arizona and New Mexico. There are lots of places we can go to save huge amounts of money. We have to make those tough, hard decisions.

My friend from Arizona said, "What do you want? A continuing resolution?" I do not want a continuing resolution. We have in recent years passed 13 separate appropriations bills. The President should veto those, and, if we send him a CR, a continuing resolution, which he does not like, veto that too. Because, if he is doing it based upon the fact that Lawrence Welk's home is in there or some kind of other appropriation that cries out for some type of relief, that we are going to accede to the President's wishes.

I say to my friend from Arizona, outrageous spending is not acceptable. Outrageous spending is not acceptable. We are spending too much money based upon our income, and we have to stop that. In addition to that, we are spending money in areas that we should not be spending money on. I am willing to work on those. I hope this year. We are awaiting the Senator from New Mexico, the chairman of the Budget Committee to come forward with a budget that is going to be a glidepath that will get us to a balanced budget in the year

2002 or some period thereafter. I look forward to working with my friends from the other side of the aisle to see that we can do that. But let us not do it with gimmicks, with things that sound good but really are not going to allow us to accomplish anything.

I am for a balanced budget amendment. But I want to exclude Social Security. I am for a line-item veto. But I do not want to accede authority to the President of the United States. Presidents can be extremely mischievous, especially with a small State, having the ability to say OK, Senator REID, I see that you have here something in Nevada that is very important in Nevada—maybe a new highway, maybe a new bridge, maybe a dam that is important to the people of the State of Nevada. He could say, "If you vote with me on this item, I am not going to line-item veto that." Well, I would hope that I would be able to do the right thing in that instance. I hope I could. I hope the right thing would be to do what was the best for the people of the State of Nevada.

But let us not give the President that authority. He has not had it in over 200 years. He does not need it now. Veto is in the Constitution. It requires a two-thirds vote. That is why the President should use that veto if he thinks there is outrageous spending in any one of these 13 bills.

I would also be interested to hear during the debate today from those on other side of the aisle to see if they are willing to put tax measures also in this form of rescission that we are giving to the President.

So I would hope that we could accomplish something through reasonable men and women working together to recognize that there are provisions in the appropriations bills that are bad, that are wrong, and that the President should have the ability to send back to us something to take out more than he now has without giving up our constitutional authority to a President. I do not know who the President is going to be the next time or the next time. But I want to leave this body recognizing that I kept intact the intent of the Founding Fathers.

Mr. McCAIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. McCAIN. Mr. President, as the saying goes, everybody is entitled to their opinion, but not everybody is entitled to the facts.

I wonder if the Senator from Nevada thinks that it is coincidence, that it is just sheer coincidence, that from 1787 until 1974 the accumulated debt and deficit and yearly deficit was very low, except in times of war when that spiked up and then the Congress and the American people would take action to reduce that debt again.

I do not know if the Senator from Nevada can see this chart. But in 1974, we were running an annual deficit somewhere around \$25 to \$30 billion. The Budget Impoundment Act was enacted

in 1974 which prevented the President of the United States from doing basically what the line-item veto does; that is, the President of the United States, Thomas Jefferson did it first with a \$50,000 impoundment of money to purchase gunboats. It has been exercised by every President of the United States. They will not spend the money thereby effectively exercising a line-item veto.

So basically, what we are talking about, what happened in the history of this country up until 1974 is that we exercised fiscal sanity. We had elected men and women to the Congress of the United States and elected men to the Presidency of the United States who insisted that we not lay a crushing burden of debt on future generations of Americans.

So in 1974, we passed the Budget Impoundment Act. What happened to the deficit? Did it happen by accident? Did all of a sudden we lose all sense of fiscal control? All of sudden, the United States just went on a spending spree? Yes. Yes. Yes. We did. Why did we do it? Because there was no restraint, either Republican or Democratic Presidents alike.

It is laudable that we have now reduced the annual deficit some, but all estimates are that the debt and the deficit after a couple of more years will go up again and skyrocket. We have now accumulated a \$4.6 trillion debt, about \$4 trillion more than we had in 1974.

So facts are facts. From the first Congress of the United States until 1974 we basically had a balanced budget. We for all intents and purposes did not spend more money than we took in. Thomas Jefferson in 1789 clearly stated, as I just quoted:

I wish it were possible to obtain a single amendment to our Constitution. I would be willing to depend on that alone for the reduction of the administration of our Government to the genuine principles of its Constitution. I mean an article taking from the Federal Government the power of borrowing.

What we did, Mr. President, in 1974 with the passage of the Budget Impoundment Act was we gave the Federal Government the power of borrowing with no restraint. Now we borrow and borrow and borrow to a \$4.6 trillion debt.

I agree with everything that my friend from Nevada said. We should enact health care reform. We should take care of the skyrocketing health care costs to Americans. We should do a lot of things. But what have we done? Nothing, nothing to reduce the debt that is now \$4.6 trillion. Our forefathers must be rolling over in their graves when they see what we have done, when they look at the mountains of Federal budget that is being spent to pay interest on the debt that we have not stopped accumulating.

So I say to my friend from Nevada, I agree with everything he says. I appreciate his advice and counsel as far as what we can do to stop the spending.

But I would suggest to you that every President has said they need the line-item veto as a tool whether it be as President Ford or President Carter or President Bush or President Reagan saw it, and now as President Clinton sees it.

I wonder how the Senator from Nevada reconciles his views with that of the President of the United States? The fact is that a veto is a veto is a veto, which means two-thirds majority, a majority vote in one House is less than an overriding veto because it took a majority vote in both Houses in order to put the unnecessary wasteful spending in.

So, I say to my friend from Nevada. I appreciate his input as far as the macro issues that we have to resolve. I would also suggest to him that the abuses that he describes would so naturally accrue to any President of the United States threatening Senators or Members of Congress who were doing certain actions, line-item projects in their State. I could hardly wait for a President of the United States to do that to me. I could hardly wait. There are the media, the people of my State. It is the last time that a President of the United States or his party would ever carry my State in a Presidential election if he tried to blackmail me or any representative of my State. In 43 States of America, including a former Governor of Missouri who spoke on Friday—and I do not believe the Senator from Nevada was ever Governor—the Governor never threatened to blackmail anybody. He said he could not balance the budget in his State without having the line-item veto, which he and 42 other Governors have.

Again, I do not think we can reconcile the facts. There are opinions as to what happened and as to what we need to do. But there are facts that indicate that the Federal debt and deficit are out of control and almost every expert in America, including 83 percent of the American people, say, "Give the President of the United States the line-item veto." When they say veto, they mean veto, and they do not mean overriding by one House of Congress.

I say again to my friend from Nevada, with 70 Democrat votes, the line-item veto that is being proposed here was passed by the House of Representatives, and I believe their will is perhaps more in tune with American public opinion today than is true over here in this body.

I yield the floor.

Mr. REID. Mr. President, I am going to vacate the floor shortly. But I want to make sure the record is very clear that there is no way I think spending is now under control, even though we have made significant progress. This is the third year in a row where we have a declining deficit—the first time in 15 years. Federal payroll is about \$150 million less; economic growth is the highest since the days of President Kennedy. Good things are happening, but we have much more to do. What we have to do—and more important than

anything else, as indicated by the Senator from Arizona—is to do something about the deficit that is already here and the deficits that come about every year. We must do something about that. I served a year on the entitlement commission. We have a lot of work to do and we have a lot of programs that need to be looked at, because 46 percent of every dollar we spend is for entitlement programs.

The Impoundment Act, there has been a lot written about that. But it was an effort to go after President Nixon—the so-called imperial presidency that people talked about. I think a lot of things done as a result of Watergate were not good Government. It was a reaction to a man rather than a form of Government. That is why I am so concerned about what we do here.

The record should be very clear. The deficits have accumulated. But the big jump, of course, as indicated on the chart my friend just showed the Senate and the American public, occurred during the Reagan years, when in fact we cut back on our income and increased spending considerably. We cut back on the revenues, reduced taxes, and increased defense spending and other spending, and as a result of that, trillions of dollars in debt accumulated. We have to do a better job of taking care of those problems than we did. The problem with the debt going up is not as a result of passing a law to do away with the Impoundment Act. It is as a result of simple mathematics. When you spend more than you take in, you accumulate a debt. That is what happened beginning in the Reagan years, and that is what is happening now. We need to get that under control.

I am not here to argue that every matter and every appropriations bill is good. I think there are things in appropriations bills that should not be in there, that are the result of compromises of committee members, and as a result of back-room politics, for lack of better words. The President should have an easier way of getting to those items, and I am willing to give him that. If we are unable to arrive at that, I hope President Clinton, and other Presidents that follow him, would be more demanding in what they ask in their appropriations bills. I am confident and hopeful that we can arrive at a reasonable compromise in the next few days in this body.

It is my understanding that there is going to be no effort to stop this motion from proceeding. We are going to go ahead to the bill. There is no attempt to delay it. But I think it is a question of how to approach a problem. I believe that the approach of my friend from Arizona—as well-intentioned and as desperate as he is to get spending under control—is not the right way to go. I hope he and other sponsors of the legislation will step back and look at what we have in the Domenici proposal and see if the proposal that is going to be offered in the form of a substitute is not something

that would better serve this country. We need to get spending under control, and we need to work on some of the things I have talked about and some of the outrageous things that the Senator from Arizona has talked about over the years that have taken place in appropriations spending bills.

Mr. McCAIN. Mr. President, I suggest the absence of a quorum and ask unanimous consent that the time be deducted equally from both sides.

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

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. ASHCROFT). Without objection, it is so ordered.

Mr. GRASSLEY. Mr. President, I ask unanimous consent to speak as if in morning business for 7 minutes.

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

INTEGRITY OF THE DEPARTMENT OF DEFENSE BUDGET

Mr. GRASSLEY. Mr. President, over the next few days, I intend to give a series of speeches on the integrity of the Department of Defense budget.

Before I get started, and for the benefit of all new Senators, I want to give some background on how I got involved with these defense issues.

I want to share a small piece of history with my colleagues. I think we can learn from this history and hopefully we can avoid past mistakes. But we cannot learn from our mistakes if the history remains buried in old issues of the CONGRESSIONAL RECORD. So I want to share my experiences with, particularly, my new colleagues, because over half of the Members in the Senate today were not Members of this body 10 years ago when President Reagan's massive military buildup was fiercely debated right here in this Chamber. I think that was a defining experience for me.

We made a major decision when we stopped the Reagan defense buildup that, at that point, had been going on for 3 or 4 years. This process helped to shape my thinking, as I said. Even though it took place more than 10 years ago, I think it still is having some ripple effect today. Its mark on current defense policy is unmistakable. So it is important to understand the dynamics of that debate, at least from my perspective.

I was convinced—almost from day one—that the Pentagon, through its actions, was bent on launching a wasteful budget buildup. I was convinced that we were about to throw huge sums of money at a problem better solved by structural reform and honest management.