House bill. As I understand it, it essentially says that the President can veto tax expenditures that have the practical effect of benefiting a particular taxpayer or limited class of taxpayers when compared with other similarly situated taxpayers. While there is some ambiguity, I take this provision to have a broad interpretation.

I might offer an amendment during the course of the debate to clarify that this provision should be interpreted broadly, or I might through the course of the debate, in hearing what other Senators say about it and my own interpretation of the amendment, decide not to offer such an amendment. But I do think that it is a step far in the right direction. This is really an opportunity to bring tax expenditures into the line-item veto in a significant way, and allow the President of the United States not only to veto those pork projects that are in the appropriations process but also to look at every tax bill that often is dotted with special interest provisions or attempts to expand special interest provisions that are already in the Code and strike those lines with a line-item veto.

So, Madam President, when we have the cloture vote on Wednesday, I intend to vote for cloture. And I hope that we will be able to dispense with this bill by the end of this week and move on to other matters. I think this is an important measure.

I look forward to working with the distinguished Senator from Indiana who has been a good colleague throughout this process. I compliment him on the bill that has come before the Senate.

Mr. COATS addressed the Chair.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. COATS. Madam President, I want to thank the Senator from New Jersey for his remarks and commend him for his longstanding efforts on behalf of the line-item veto concept.

The Senator from New Jersey has talked to me on numerous occasions about expanding the original concept of the bill that Senator MCCAIN and I have proposed to include—not just appropriated items but also tax expenditures. He, as a member of the Finance Committee, detailed for me the process of what most would consider tax pork that occurs as tax bills are written. It is not just the appropriations process.

I am pleased that we could address this issue in this bill as an amendment introduced last evening by the majority leader. I say to the Senator from New Jersey our goal, I believe, is the same—to address the same items that he attempts to address. I hope that as we debate through this and work through this we can clarify that so that Members know exactly what we are after. It is hard to get the exact words in place so that we understand just exactly how this applies to tax items. But I believe that the targeted tax expenditures which are targeted in the Dole amendment very closely parallel what the Senator from New Jersey has tried for so long to accomplish.

So we look forward to working with him. I thank him for his support.

Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call roll.

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

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

RECESS

The PRESIDING OFFICER. Under the previous order, the hour of 12:30 p.m. having arrived, the Senate will now stand in recess until the hour of 2:15 p.m.

Thereupon, at 12:32 p.m., the Senate recessed until 2:16 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. ABRAHAM].

LEGISLATIVE LINE-ITEM VETO ACT

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER (Mr. ABRAHAM). The pending question is amendment No. 347 offered by the majority leader to the bill S. 4.

LEAVE OF ABSENCE

Mr. STEVENS addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, I have to attend a meeting in Delta Junction, AK, pertaining to Fort Greeley on Friday, March 24. I ask unanimous consent that I be excused from attendance in the Senate from 3:45 on Thursday, March 23, until the Senate convenes on March 27.

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

The Senator from Idaho.

Mr. CRAIG. Mr. President, this afternoon I rise in support of S. 4, the Legislative Line-Item Veto Act.

What is now ongoing is, in my opinion, the long overdue and what I hope is a historic debate toward resolution of this very important issue.

Let me recognize both Senator COATS and Senator MCCAIN, as well as Chairman PETE DOMENICI and Majority Leader DOLE, for their willingness to work together to bring us to a point of compromise that I think has produced a line-item veto product in S. 4 that can pass the Senate, work through the conference with the House, and ultimately be placed on the President's desk with the degree of confidence I think we now have that he will sign it.

This is one of those items that an overwhelming majority of the citizens of our country say they agree with. It is certainly something that most Senators have agreed with in principle, and now that we have been able to refine it, we have a product that I think the majority can support.

The issues, of course, were the two-thirds override: What kind of authority would the President have in the ability to veto and in our ability to react to that veto? I think it has to be a tough vote, a supermajority vote. The idea of a simple majority, while I supported a concept like that a year ago, now clearly, if we can get the tougher version, we ought to do so.

The idea of separate enrollment or rescission is an issue that has been discussed. To extend the line-item veto authority in new, direct entitlement spending as well as appropriations is another issue that we had to work our way through. And, of course, to extend the targeted tax benefits, again, is another one of those issues that I am extremely pleased to see that we have been able to deal with.

Let me first talk about the majority versus the two-thirds override which is really at the heart of all of this. It is the heart of the division of authority and responsibility and the power associated with that authority. As I have mentioned, I have supported both approaches in the past, but I have always argued in doing so it was extremely important that the Congress of the United States pass the strongest possible line-item veto. In fact, as Senator MCCAIN read earlier yesterday, that is exactly what the President has now said publicly he wants—the the strongest possible product that the Senate of the United States or the Congress collectively can yield.

Last year's House passed a majority override. This year, an overwhelmingly bipartisan House, by a majority of 294 to 134, passed the two-thirds override, an important signal from that new Republican House.

Now that Senators know we are firing with what all of us know are real bullet votes, it is an opportunity to get our two-thirds. That is the product at hand now. That is why I am extremely pleased that we can deal with it.

The second issue I mentioned, the idea of separate enrollment versus rescission—as I say, I have sponsored both and cosponsored both because, whether I was in the majority or whether I was in the minority, I have always argued that we had to get to the President's desk and into his power some form of line-item veto. The stronger versions were always greatly appreciated by this Senator, but at the same time I felt it was critically important that we move the issue. Now my preferences lie clearly with a strengthened rescission approach. It is simpler. In enrollment, transmission to the President, and at signing of a law, it could be used as a scalpel instead of the idea of a butcher knife, because rescissions can reduce as well as zero out an item. I think that is the way we want to handle this.

But I will vote for a separate enrollment—or I would have, if that had been

the case. We think that is not going to be.

It should not sacrifice the good at the altar of the perfect. We have worked out what can be called near perfect on this issue, and I am pleased that all of the Senators came together to strive to build the compromise. The only line-item veto that will become law is the one that we can send to a conference with the House and work out our differences on. From what I am hearing from some of my former colleagues in the House, we can get that done now with the work product that we are debating here at this time.

Separate enrollment was a second-best approach. That still makes it definitely preferable to the status quo. Senator BRADLEY and Senator HOLLINGS have introduced a version of that concept. The Senate Budget Committee reported one out several years ago. The Senate considered a separate approach in 1985. It is not mysterious, last-minute kind of work. It is simply the kind of product that had to be looked at as we worked our way through the differences with this kind of legislation.

Opponents can have it both ways, I guess, in their arguments. Some of those who criticized us for defending a balanced budget amendment as reported from the committee now are complaining that the committee-reported bill may be changed on the floor. We now have built a majority consensus so that kind of issue will not have to be worried about or dealt with as we work our will in the final debate, moving through cloture, I hope, to final passage.

At a policy lunch today the leader, Leader DOLE, mentioned it was possible we could get to a unanimous-consent agreement that would not take us through cloture. I hope that will be the case. This ought not be a contentious debate, or protracted. When an overwhelming majority of the American people want their Government to perform in a certain way, then we ought to make every effort to get that done. And certainly both Senators MCCAIN and COATS, working with the other Senators mentioned, I believe have tried to accomplish that. And S. 4, I think, clearly embodies that kind of effort on the part of the Senate.

Extend it to targeted tax benefits, the other issue I have mentioned. It is important to remember that taxing and spending are fundamentally different kinds of things. When Congress reduces someone's tax burden we are not giving out something that is the Government's, although there are some here who would like to argue, when we talk about this kind of thing, that somehow it is taking money away from the Government. I strongly argue taxpayers' money is theirs in the first instance. It is a majority issue of Government, when Government decides to ask the citizens of this country to give a certain amount of their hard-earned effort in behalf of Government. But the idea that we are giving something back, to me has always been an astounding attitude on the part of many in Congress. I simply have argued the opposite and always will continue to do so.

I believe in a free society it is the citizens who govern and not the government. In this instance, I think we are caught in a debate of that kind of argument when we deal with the differences.

It is why I support the concept of a flat tax and always have. The line-item veto should extend to the tax side of the budget, and that is what we are trying to do now. If it is limited to a veto over narrowly targeted tax benefits—in other words, tax pork—then we ought to look at that. That is what this ought to do and that is exactly what we will be attempting to accomplish. Generally applicable tax relief, like rate reduction, indexing, or deductions or exclusions that apply to all taxpayers who are similarly situated, should not be the subject in some instances of a line-item veto. It should apply only in cases where similarly situated taxpayers within a group are targeted directly and are arbitrarily dealt with in tax legislation.

Let us debate substance in this instance and quit playing the politics of this. Let us pass a bill and send to the conference and to the President a document that truly works with the kind of issues we deal with and gives the President substantive participation in the processes of budgeting. I hoped what happened on the balanced budget amendment is not going to happen here. It now appears we have been able to strike a compromise that will allow it. But there is also something else important to remember. Balanced budget amendments require two-thirds votes. This will require a majority of the Senate voting in favor of this.

If we had been able to solve the problem of cloture, if we have been able to pass through that now with a unanimous-consent agreement—and I hope we can get there in the next few hours—let me tell you, it is going to be awfully important in resolving this issue and showing the American people the Congress of the United States and the Senate can be responsive to the issues at hand.

Promoting fiscal responsibility—that really is the issue underlying all that we do with the line-item veto. In 1974, from then until October 1994, the President requested 1,084 rescissions totaling $72.8 billion. Of the 1,084 rescissions, Congress approved 399, or about 37 percent. That amounted to $22.9 billion or 31 percent of dollar volumes requested.

Alone, a line-item veto process is not going to be enough to balance the budget. But it is widely estimated it can save at least an additional $10 billion a year in the current budgeting scenario. To paraphrase Senator Everett Dirksen: $10 billion here and $10 billion there, and pretty soon we are talking about real money.

Interestingly enough, while we might forget that, thank goodness, the taxpayers and the American public have not forgotten it. That is why the line-item veto constantly over the years has increased in popularity as a concept and an important device for the executive branch of Government to have.

Does it yield exclusive power to the President or to the executive branch? Absolutely not. But what it does, whether it is a Republican President or Democrat President, it gives that President the opportunity to single out some of the budgeting and expenditure activities that have gone on here on this Hill far too long. The special project of the special Senator, knowing full well that project alone could not come to the floor and sustain itself with a majority vote of the Senate itself, but because it has been tucked away in an appropriations bill, because it was give a little here and get a little from another Senator—that game has been played for years. And literally hundreds of billions of dollars have been spent for very questionable projects in individual States that should never have been allowed. That is the goal of a line-item veto. That alone would save us billions of dollars a year, but that is not the only goal of a line-item veto. The other goal is for the President himself or herself to participate directly, to deal with broader issues, if they will, to cause the targeting of the debate when it comes to the expenditure of tax dollars in ways that simply have not been targeted.

I have served in State government where Governors had line-item vetoes. I have had to go against a veto, take it to the floor of the State Senate in Idaho, and argue why we ought not to sustain the Governor's veto in many instances.

Let me tell you. It really works to refine your thinking. It forces you to do your homework. It forces that issue to the floor in a laser kind of direction of the conference or in this instance the Senate's attention on a given legislative issue, a given appropriation issue. All of us who have served here for any length of time know very clearly that when many of these appropriation bills come to the floor they are very large in nature, and the balance on them that has been created is oftentimes very precarious.

So the question of legislative accountability, as I have been talking about, has to be one of the other most important issues in bringing about a line-item veto. As I have said, many of these appropriations bills involve hundreds of pages of detail, and it is virtually impossible for every Senator and for all staff to read every bill, every page, every area of fine print.

Certainly, if it has happened to me once, it has happened to me many times over the course of my years in

serving Idaho both in the House and in the Senate to go home and to hold a town meeting and to have someone come and say, ''Senator, did you know that in that bill you just passed there was that provision in it?'' In all fairness I have to say, ''You know, I did not know that. If I had known it, it might have changed my vote or it might have changed the attitude in which I dealt with a given issue.'' That is the responsibility that comes about as a result of giving the President the kind of authority that is now offered in S. 4, this very critical piece of legislation.

Very simply, that is why the American people by an overwhelming majority have supported this concept.

So as we have worked out our differences in dealing with the style of vote, and the way we handle different items that target the President's attention and his authority under the line-item veto, in all fairness, Mr. President, I am extremely proud of the work that we have been able to do and what I think will show on the final vote to be a very bipartisan issue.

One of my voters in Idaho said the other day, ''Well, Senator, do you really think this is the time to give the President a line-item veto? I mean he is a Democrat, you know.'' I laughed and said, ''There is no good time, and there is no bad time. I have always supported this idea, and if it is good enough for Ronald Reagan and George Bush, it is good enough for Bill Clinton, and all of the other Presidents who will serve after them.'' Why? Because it is good public policy. It is the right thing to give the executive branch of Government because it fine tunes, it brings about accountability, and it causes the Congress of the United States and the Senate to do its homework in the kind of detail that we have not been producing in the past.

In the final analysis, when I mentioned that 1,084 rescissions that Presidents have asked for and the 300-plus that we have been able to agree on, and the tens of billions of dollars that have been saved, and the more that will be saved by the kind of effort that we are involved in today, that is the bottom line. That is the bottom line we all strive for. That is why this line-item veto embodied in S. 4 is good public policy.

I hope that we can work out the necessary unanimous consent so that we do not have to march down the road of a cloture vote and that we can then bring ourselves to the finality of the debate and final passage. But in the end, if we cannot, then I will certainly support cloture. It is time we bring this issue finally to the floor for debate or for a vote, and I hope we can accomplish that.

I yield the remainder of my time.

Mr. COATS. Mr. President, I thank the Senator from Idaho for his comments, for his support, and for this effort. I appreciate the contributions that he has made over the past several years in attempting to deal with this.

Mr. President, I note the Senator from West Virginia is on the floor. I certainly have no immediate requests for time at this point. I would be happy to yield the floor.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER (Mr. THOMPSON). The Senator from West Virginia [Mr. BYRD] is recognized.

Mr. BYRD. Mr. President, I suppose one of the evils that was included in Pandora's box was the evil of the common cold, and I seem to have been stricken with that virus for the present.

At last, we have seen unveiled the amendment which is the product of the frenetic efforts of our Republican friends to come up with something of a line-item veto nature behind which they could rally a majority of their Members. Even a cursory examination of the amendment will compel one to say, with, Macduff, ''Confusion now hath made his masterpiece.''

I think it is prudent to reflect with some care and detail on this far-reaching measure. I find the transfer of power from Congress to the President, which would occur if this amendment were adopted and implemented, a disturbing proposition. Mr. President, I fully realize that when a Senator starts to talk about the shifting of power from the legislative branch to the executive branch, his words, in great measure, fall upon deaf ears insofar as his colleagues are concerned. One may talk until he is blue in the face, though he may have lungs of brass and a voice that will never tire, he simply cannot get within the eardrums of a good many of the Members of this body if he happens to be talking about separation of powers and checks and balances. They pay little or no heed to what is being said. Consequently, I daresay that what I have to say today will probably be treated in the norm. That is, it will not be listened to by many Senators. Those who may happen to pass by a TV screen and may hear it will nevertheless pay little attention to it. Even if they were to sit in front of me here in a chair and listen raptly, it would have no impact upon them.

I am sorry to say that we have come to such a state in the U.S. Senate that we are not disturbed when measures come before this body the effect of which would be to transfer power from the elected representatives of the American people, in the legislative branch, to the Chief Executive. But that is one thing this is all about.

This is not a line-item veto measure. It may be called that, as a duck may be called a goose or a guinea pig or a chicken. But the duck is still a duck, and all may call this a line-item veto who wish to call it that. But it is not a line-item veto. Nevertheless, if it is enacted, the shift of power will have taken place. The only good thing I can say about the amendment that has been offered by the distinguished Republican leader is that it does have a sunset date.

Consequently, there will come a time when the Senate, if it has learned anything in the meantime, will perhaps make a determination not to go down that fateful path again and renew the life of this measure. I do not denigrate those who support this measure. I know that the distinguished Senator from Indiana [Mr. COATS] and the distinguished Senator from Arizona [Mr. MCCAIN] have long labored in this vineyard, and undoubtedly they believe in what they are doing. They believe it is the right thing to do for the country and the right thing to do in the effort to get some kind of control over our massive deficits. So I do not in any way cast aspersions on them. We differ. We differ in our philosophy, I suppose. We probably differ in our concept of the Senate and the part that it is to play in the universe of institutions created by the Constitution.

I think it is prudent to reflect with some care, as I say, on the details of this far-reaching measure. I do find it a disturbing proposition to contemplate the transfer of power from Congress to the Executive. The power we are talking about here is the control over the purse. I will not belabor the Senate with the long history of the people of the British Isles, the long history of the English people, who fought for centuries to bring about the logic of that power over the purse in the hands of the elected representatives of the people of England, the reposing of that power over the purse in Parliament. I have not sought to belabor that point at this time. I think that that, like almost anything else one may say on this subject, would probably go unheard, even though there may be those with ears who might otherwise listen. The fact that our Framers drew upon the experience of the colonists and the States, which in turn had drawn upon the experience of Englishmen for centuries, really means nothing in the waiting ears of most of today's Members of this body.

Few people attach any, or certainly not very much, significance to the checks and balances and separation of powers which our Framers constructed. Few people attach any significance to the purpose of that separation of powers. Few understand that that mechanism grew out of the experiences of centuries of time in the motherland of most of our forebears.

So it might be a waste of time to attempt to dwell upon those things, except if one wishes that the record, which will last a thousand years, will still be read by some, at least, who do work in the research field and may find it of interest accordingly. But to most of us here today, most of us who serve in this body, we do not pay much attention to history. History is bunk, as Henry Ford was supposed to have said. And I gather that most of my colleagues look at history in about the same fashion.

But the time will come when there will be those of posterity who will look back and see the record. They will know where the parting took place and where the delinkage occurred.

The power of the purse, which has been lodged in the legislative branch for over 200 years, would, in considerable measure, be shifted to the executive branch, and specifically to the Office of Management and Budget.

That is where the power is going to go, to the Office of Management and Budget.

One needs only to recall the words of David Stockman a decade ago when asked, at the American Enterprise Institute Conference on the Congressional Budget and Empowerment Control Act, what the line-item vetoes effect on the Federal deficit would be. In a burst of candor, David Stockman replied: ''Marginal, if at all.'' Mr. Stockman amplified his answer by saying: ''Line-item veto is about political power and political control. It can be used for lots of things. It would be great for the director of OMB.'' David Stockman's words could not be more true, and when applied to this amendment, they hit the nail right on the head—right on the head.

There are those who say, ''Well, the States have the line-item veto. Why not give the President the line-item veto?''

There are those who, as former Governors, say, ''I had the line-item veto when I was Governor. Why not let the President have the line-item veto?''

Mr. Reagan said when he was Governor of California, ''I had the line-item veto. Now give me the line-item veto as President of the United States.''

Well, I think the problem with that is that being Governor of a State is one thing; being President of the United States is an entirely different thing.

I have in my hand what we know of as the ''West Virginia Blue Book''—the ''West Virginia Blue Book.'' Well, in this ''West Virginia Blue Book,'' there are many items of interest, but the thing I shall point to today is the Constitution of the United States of America. It is printed in the ''West Virginia Blue Book.'' And in the ''West Virginia Blue Book,'' it covers all of 15 pages. That is it. That is the Constitution of the United States of America—15 pages in length. Right here.

It is 60 pages in length—60 pages for the constitution of West Virginia; 15 pages for the Constitution of the United States.

The constitution of the State of West Virginia goes into much detail about numerous and sundry items that are of interest to the State of West Virginia, of interest to a State.

And I daresay that there being 50 States, I would assume there are 50 constitutions of 50 States in this country. And I would also assume that not one of those other constitutions, not one of the other 49 constitutions, is the same, precisely, as the constitution of my State of West Virginia. They are all different.

Any high school student who is worthy of graduating from high school understands that the State government and Federal Government are two different things. Each operate in a separate sphere. The State is supreme in its sphere. The Federal Government is supreme in its sphere. Two far different entities, and one is not to be confused with the other.

The Constitution of the United States provides certain powers for the Congress: ''To borrow money on the credit of the United States.'' That is a power of the Congress.

Let me read just a few of the section 8 powers, section 8 of article I of the Constitution of the United States.

> The Congress shall have Power To Lay and collect Taxes, Duties, Imposts and Excises, to pay the Debts and provide for the common Defense and general Welfare of the United States.

Now not one of the 50 States' constitutions have that proviso in it. Not one.

''The Congress shall have Power . . . To borrow money on the credit of the United States.''

''The Congress shall have Power . . . To regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes.''

Not one of the 50 States, not one, provides that power upon the government of the State.

''The Congress shall have Power . . . To establish a uniform Rule of Naturalization, and uniform Laws on the subject of Bankruptcies throughout the United States; To coin money''—no State in this country may coin money. Prior to the creation of this Republic, States could coin money in America. Under the Articles of Confederation, the States could coin money. But no longer. Only the Federal Government.

''The Congress shall have power . . . To coin Money, regulate the Value thereof, and of foreign Coin, and fix the Standard of Weights and Measures.''

I know it is old fashioned to read the Constitution any more around here. Before it is finally relegated to the rare book section of the Library of Congress, I would advise my friends to come to me and get a copy of this Constitution. I carry it in my pocket. This is the Constitution of the United States. It cost me 15 cents. It is a little worn now. I think it costs $1 now, but this one only cost me 15 cents. I have several copies of these which I will give to any Member of the Senate who supports this line-item veto. I will be especially happy to give it to them. Come and get a copy of the Constitution and read it. See the difference in the State governments vis-a-vis the Federal Government.

> To provide for the Punishment of counterfeiting the Securities and current Coin of the United States;
>
> To establish Post Offices and post Roads.

And so on and so on.

> To declare War . . .
>
> To raise and support Armies . . .
>
> To provide and maintain a Navy.

These people argue about Governors having the line-item veto, give it to the Governors; why not give it to the President of the United States?

> To provide and maintain a Navy . . .
>
> To make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers, and all other Powers vested by this Constitution in the Government of the United States, or in any Department or officer thereof.

And so the Framers deliberately created this system of separation of powers and checks and balances.

Now, at the State level, the system is not so clearly and delicately delineated, as it is at the Federal level. There is a system of separation of powers at the Federal level. There is a system of checks and balances at the Federal level. One can stand and talk until he is blue, until his gills turn blue and we will still have Senators saying, ''Well, the Governors have line-item veto; this is just process.'' Well, it may be just process, but it is part of the constitutional system of checks and balances and separation of powers and it is worth fighting over.

I cannot conceive of a reelection for the U.S. Senate being so close that I would be defeated because I voted against the line-item veto. I cannot conceive of that, and if it is, then so be it. I believe, having taken an oath to support this Constitution 13 times in going on 49 years now, I believe in that oath. I believe in supporting and defending this Constitution, and that entails the defense of the separation of powers and checks and balances. We cannot do that with a wink and a nod. We cannot just brush it aside and say, ''Oh, that's process. The Governors have it, we ought to let the President have it.''

I know that there are a lot of Governors who believe that that is a sufficient argument to make and that it is defensible. But I say read the Constitution of the United States. Read the Federalist Papers. There are 85 of them. About two-thirds were written by Hamilton; about a third by Madison. Some of them are in dispute as to who is the author, Madison or Hamilton. Five were written by John Jay. No. 2, 3, 4, 5 and I believe No. 64 were written by John Jay. Read them.

One cannot really fully understand this system which was created by the Framers, among whom were Hamilton and Madison, without reading the 85 Federalist papers. It is the most marvelous exposition of this system of Government that one may find anywhere under the Sun. And we are about to lightly toss away this power over the purse, which is the critical balance wheel in the system of checks and balances.

The novel approach of this amendment—and this is a novel amendment, a novel approach—the novel approach of this amendment would empower the enrolling clerk of the body in which an

appropriations measure originated to dissect the bill or joint resolution item by item, paragraph by paragraph, section by section and then create bills and joint resolutions—so-called bills and joint resolutions—for each of those items, add to them fictitious enacting clauses—fictitious enacting clauses—and send the composite products to the President as though these items were legislative measures passed by both the House and the Senate in the format in which they are presented.

For those who have the patience to listen and who may really care—and I do not expect all my colleagues to be in that category, and perhaps I cannot blame them. Because I feel so strongly and so deeply about this, a common cold will not keep me from speaking. Oh, that my voice would carry to the hills or the mountains, and though I had to be brought into this Chamber on a stretcher, I would still fight for this Constitution and its system. It is not a process. Process. This is the Constitution we are talking of here. This is the constitutional system that we are about to imperil.

This amendment that has been brought in by the distinguished majority leader—and he is a distinguished majority leader, a very distinguished majority leader—this amendment provides, in essence that a bill—this is a bill. This bill is H.R. 4506. It is a bill that passed the Congress in the 103d Congress, the second session. It is an act making appropriations for energy and water development for the fiscal year ending September 30, 1995, and for other purposes. We would refer to this as the energy water bill. It is not a very lengthy bill.

This bill that is 43 pages—43 pages—includes the Senate amendments. This bill came over from the House. H.R. 4506 came to the Senate from the House, and the Senate acted to amend the bill in certain places. There is the bill as passed by the Senate and the House.

Now, the bill went to conference so that the differences between the two Houses could be resolved. When the bill came back from conference, this is what it looked like. This is the conference report to accompany H.R. 4506, making appropriations for energy and water development for the fiscal year ending 1995, and for other purposes. And so I hold in my hand this conference report. This means conferees from both Houses sat down in conference, spent several hours, perhaps days, in resolving the differences between the two Houses in connection with this bill, H.R. 4506.

This conference report lays out in minute detail the items of appropriation, setting forth the budget estimate on each item and the conference agreement on each item. There they are, hundreds of them.

Now, when this conference report was agreed on by both Houses, then the act went down to the President for his signature. This conference report did not go to the President for his signature. He could not look into the conference report and veto items in that conference report because the conference report does not go to the President.

He looks at the bill. Here is the final public law, Public Law 103–316, August 26, 1994, and it is composed of—I have not counted the number of pages in it—17 pages. That is the final product. If someone wants to see the final act making appropriations for the Department of Defense, Department of the Army, Corps of Engineers, and so on, they would ask for Public Law 103–316, 103d Congress. There it is. That is the product of months of work, starting with this bill which is sent over from the House, amended in the Senate, going to the conference, with the conferees bringing back to each House this conference report, and it went down to the President. He signed it. This is the final product. That is public law.

Now, at the State level, under the State constitutions, the State laws, most of the bills making appropriations at the State level are set forth by items in the bill that is to go to the Governor's office, and the Governor can line item this out, strike through it with his pencil, put his initial there; go down to this item, strike it out, and put his initial there; go down to the next item, strike it out, and put his initial there. He has line-item vetoed several of the provisions in that bill.

Well, I have already shown why the President cannot line-item veto here. In the first place, he does not have the constitutional authority to line-item veto, never had it, does not have it today. But the items are not set forth in such minute detail, even if he had it. Most of the items are set forth in large sums of moneys. To find out what is in each sum, one goes to the conference report to find out the details.

Now comes this amendment which says that any appropriation bill, once the amendment is agreed to, that hereafter becomes law, any appropriation bill that comes to either body that does not have each of these items set forth in the bill may be sent back to the committee unless there is a waiver by three-fifths of the persons elected and sworn. So every bill will now have each of these items, each item in the bill. When it goes to conference and comes back, the conference report, if the conference report which heretofore I have had in my hand as representing the conference report on H.R. 4506 comes back at a future time, the bill to which it relates will have to have every item, every item enumerated therein.

And then what would happen? Well, now, this is sleight of hand. If I ever saw sleight of hand, this is it in its rawest form. This bill will be sent back to the clerk, the enrolling clerk of the body in which the bill originated. Appropriations bills by custom, not by the Constitution but by custom, originate in the other body. They originate in the House of Representatives.

Consequently, the bill, once the conference report is agreed to in both bodies, will be sent back to the enrolling clerk of the House of Representatives where the bill originated, and that enrolling clerk in the House of Representatives will break out each item, each unnumbered paragraph, each section, and enroll each item, each section, each paragraph as a bill. It will be kind of a cut-and-paste operation. In order to speed up the process, I assume that the clerk will have a lot of preprinted forms, and those preprinted forms will have on them, ''Be it enacted by the Senate and House of Representatives of the United States of America and Congress assembled.'' That will all be already printed on the form. And then the clerk must in the wee hours of midnight—he will undoubtedly have others help him—there in the subterranean caverns of this massive Capitol, the enrolling clerk with his helpers will break that bill down into those hundreds of little pieces and each will be deemed to have been a bill passed by both Houses. And each of those so-called bills or joint resolutions will then be signed by the Speaker of the House and by the President pro tempore of the Senate, or their designees, and sent to the President, to the White House.

Now, let me just show you what this would have meant in the case of this one bill, H.R. 4506. Remember, this is the bill that came to the Senate. This is the final product, the conference report. There it is, the conference report, setting forth all the paragraphs, sections, 116 pages. Now, that bill was enrolled and sent down to the President. Here it is. That is the public act, 16 pages.

But now for the enrolling clerk to have broken down that bill into each item, here is what it would have looked like. This is it. Ipso facto, the enrolling clerk waves the magic wand, the enrolling clerk of the House of Representatives waves a magic wand over that bill, and here is what we have: more than 17 pounds of so-called bills—there are over 2,000 of them—that go to the President for his signature.

Here is one of the bills. Here is another one. These are all to be sent down to the President after having been enrolled by the clerk of the originating House—which, as I say, in this instance it will be the other body. Each of those will go to the President.

Does anyone in this Chamber believe that the President is going to sit down and look at those and decide which he will sign and which he will not? No. Those will be handed over to the Office of Management and Budget and those fine, unelected, unidentified, nameless, anonymous bureaucrats—and they are all good people—will take a look at those and they will determine which of these, or somebody will determine and give to the President—determine those that ought to be signed, those that ought to be vetoed.

Let us see what the Constitution says. Let us see what the Constitution says about bills. This is article I, section 7, clause 2. This is the Constitution. This is not the so-called Contract With America. This is the Constitution of the United States. This is the way it has appeared for 206 years. There has been no change in this language in 206 years. That is the same language that was there when Washington became President; when Adams became President; when Jefferson and Madison and Monroe became President; when John Quincy Adams became President, the same language; and Andrew Jackson, William Henry Harrison—no, Van Buren, Van Buren—he found it written just like that. Then Harrison, then Tyler, Polk, Taylor, Fillmore, Pierce, Buchanan, Lincoln, Andrew Johnson, and Grant. They found the same language. Never a change.

Johnson, Grant, Rutherford B. Hayes, Garfield, Chester A. Arthur, Cleveland, Benjamin Harrison, Cleveland again, McKinley, Roosevelt, William Howard Taft, Wilson.

I was born in the administration of Woodrow Wilson. He had the same language—it has not been changed. It was not changed. That is the same language that has been there all the time.

Wilson, Harding, Coolidge, Hoover, Roosevelt found it—not a blemish, not a stain. Just like it was when George Washington said when he had to sign a bill he had to sign it all. There was not any line-item veto in it.

It has not been changed since Roosevelt. Truman did not change it, Eisenhower, Kennedy, Johnson, Nixon, Ford, Carter. Reagan wanted a line-item veto. But that is it. It withstood the trials of time.

The War of 1812; the war with Mexico, 1848; the Civil War, Spanish-American War; World War I, World War II, Korean war, Vietnam war, the Persian Gulf war. All of the panics and depressions, the panic of 1837, 1857, 1873, 1893, 1907, 1929, and 1930. This language has served throughout all of American history.

And what does it say? It says:

> Every Bill, which shall have passed the House of Representatives and the Senate, shall, before it become a Law, be presented to the President of the United States . . .

Let us read that again.

> Every Bill, which shall have passed the House of Representatives and the Senate . . .

That indicates to me that when something reaches the President's desk that is called a bill, it is something that shall have passed the House of Representatives and the Senate. It cannot possibly mean something that was enrolled by the enrolling clerk of the House of Representatives. Can any Member truthfully say that if this legislation had been adopted prior—this amendment by Mr. DOLE—had been adopted prior to the passage of this energy water bill, can any one of us say that we voted for this bill? Can we say we voted for that bill? Can we say we voted for this bill? No. I never saw it. That bill did not pass both Houses. That bill did not even pass one House.

Each of these little billettes will have to carry a designation on it that will distinguish it from each of the other 2,000 little billettes. So I suppose this would be H.R. 4506 (1). The next one will be H.R. 4506 (2). The next will be H.R. 4506 dash, or parenthesis, 3.

Finally we would get to H.R. 4506–1909, H.R. 4506–2001.

Then, to make believe that each of these passed the House of Representatives and the Senate is like looking at the noonday Sun and saying it is midnight, without a star in the sky.

This is tomfoolery. I cannot believe that we Senators in our generation are going to fall for this kind of sleight of hand.

This is public law here, H.R. 4506. Where are we going to find the public law on H.R. 4506 when it is broken down into over 2,000 little make-believe bills that have been enrolled by an enrolling clerk who is not answerable to the voters and sent down to the President? Where is the public law? Show me the public law.

> 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 approves, he shall sign it . . .

What is the antecedent of ''it''? The antecedent is ''bill.'' If it is 2,000 little ''it's,'' how is he going to sign ''it''?

> but if not he shall return it, with his objections to that House in which it shall have originated . . .

Obviously, one item, one bill, is being contemplated by the Framers. They are saying you cannot past two bills with the same number at the same time.

> 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.

We are going to have over 2,000 laws in one bill, and some bills will contemplate more laws than that. Some not as many, but some more. We just cannot be in control of our mental faculties if we are going to look at this monstrosity and vote for it. We surely cannot be kidding anybody but ourselves.

Have we read the Constitution lately? From the very beginning, S. 1 in 1789 was the Judiciary Act. It was a Senate bill. It started out in the Senate. Its number was S. 1. That created the judiciary. And ever since bills have been denominated S. 1 or H.R. 1. Resolutions are S. or S. Res. 1 or S. Con. Res. 1 or S.J. Res. 1, depending on whether they are simple resolutions or concurrent resolutions or joint resolutions. This has been the style from time immemorial going back into the colonial legislatures, going back into the British Parliament. It has been ever thus.

The passage of a single appropriation bill by both Houses would be followed by a cut-and-paste operation in the office of the enrolling clerk of the originating body, and out of the wee hours of the night, the fructifying wet pen, the scissors and paste and the whiz of the computer of the enrolling clerk and his staff, would pour out a vast litter of mini-bills, or ''billettes,'' not a single one of which had been passed by either body of Congress.

Each of these is going to have a fictitious enacting clause on it.

The genuine bill, adopted by both Houses, will have been kidnapped, and subjected to the prostitution and mutilation of a cut-and-paste operation which may rightly be termed ''a getter of more bastard children than war's a destroyer of men.'' Hundreds of little orphan bills—nobody is going to claim these little orphan bills by the enrolling clerk. ''And where did you come from?'' ''I came out of the enrolling clerk's office.'' Who enacted this bill? Who will lay claim to have enacted this bill? What Senator will lay claim to have voted on this bill? Not I. Not one of these bills will have passed the House and the Senate or the House or the Senate, not one.

Hundreds of little orphan bills will then make their way to the Speaker's desk and to the desk of the Senate President pro tempore to be laboriously signed and sent in a seemingly endless stream to the Oval Office, there to be signed or vetoed by the President.

I tell you, I am glad this was not the practice when I was President pro tempore of the Senate. Signing all of those bills will be a never-ending job in itself. It will keep the President pro tempore busy just to sign those bills.

Whatever else one may call it, this amendment will certainly prove to have been a prolific one, and the period of incubation or gestation which it will have created will put to shame that of the guinea pig or rabbit or a mouse. This multiple mutation of the legislative process will boggle the mind.

We surely cannot be in our senses. We are about to take leave of our senses to vote for this piece of junk. This is not a line-item veto. Why do we not bring on the line-item veto? Let us vote for a constitutional amendment to give the line-item veto. Let the people decide to give the line-item veto to the President.

As compared with the line-item veto, in the raw sense, this amendment is a thing of unnatural deformity—''nothing but mutation, ay, and that, from one bad thing to worse.''

It is a proposal which represents a significant abdication of power by the legislative branch in favor of the executive branch.

It is an indication of power. We are becoming not only fools but lazy fools. Just turn it all over to the President. Abdicate our power. Give it to the man downtown. Bow down to power. Bow down to power. Remember what David Stockman said. This is a ''power play.''

It is a pale substitute for really doing something substantial about the alarming budget deficits.

The amendment would also strengthen the House of Representatives at the expense of the Senate.

Do we want to do that to the Senate?

Consequently, the House of Representatives would determine the format of the measure that is sent here and would determine how these measures would be broken apart into items or paragraphs or sections. Great power to the President. More power to the Speaker. Great power to the Director of the Office of Management and Budget. And all resulting in diminished authority of the U.S. Senate. Senators all know that when appropriations bills come to the Senate, the Senate has a right to amend them. The two features about the Senate which, more than all others, make the Senate the premier upper body in the world are the ability to amend and the ability to speak at length. Now when appropriation bills come to the Senate, the format will have been laid out by the other body. When all of these little ''billettes,'' these little illegitimates that cannot really point to any parent—they cannot point to a parent bill because the bill that passed both Houses no longer exists. Where does it go? What does the enrolling clerk do with it? Does he keep it? Does it go to the Archives? Does it go to the Department of State? What happens to that bill? All of these little illegitimates—I could call them bastards, but I will not do that; I will call them illegitimates. All of these flow down to the President in a stream. Let us say the President vetoes 75 of these 2,000. He vetoes 75 and they all come back. Where do they go when they come? Do they go back to the Senate? How many would say they go back to the Senate? They go back to the body in which they originated. Of course, these did not originate anywhere. They originated in the enrolling clerk's office. But they would go back to the House of Representatives. The House would determine whether or not it will vote to override the veto. If the House does not vote to override the veto, then the Senate does not get a crack at it at all.

We all know that the Senate does add to the bills that come from the House by way of amendments. Some of the little ''billettes'' that the President would amend, some of these little illegitimate offspring that the President would decide to veto, would have originated in the Senate because the Senate has a right to amend. Do you think the Senate is going to get a second crack at that? Why, no. The House undoubtedly will not attempt to override a veto that the President has attached to one of these ''bills,'' which originated in the Senate.

This is an amendment by ROBERT C. BYRD that originated in the Senate. That is supposed to be called a bill under this amendment. It originated here. But it is not going to be sent back to the Senate. It is going to go to the House because it will have a House number on it—H.R. 4506, in this case. This number will be H.R. 4506–219, which originated in the Senate. It was an amendment added by the Senator from Nebraska [Mr. EXON]. But it will not come back to the Senate. The House will decide whether or not there will be an attempt to override that veto, and if the House decides not to attempt to override it, the Senate does not get a second crack at it.

I do not know about other Senators, but I am not in favor of subordinating the Senate to the other body. The Framers meant for the two bodies to be equal, each to play its own role. There were checks and balances between the two Houses. There will not be any checks and balances here in this situation. The Senate will not be a player.

So let us take a look at this marvel of legislative fecundity.

This is an amendment on which there is no committee report and in connection with which there are no printed hearings. That is the amendment that was offered yesterday by Mr. DOLE and immediately a cloture motion was thrown in, to bring it to a vote. That is what we have come to now in this body. We bring in an amendment which is a brand new bill, which the Members of the minority had nothing to do with insofar as helping to shape it. It is offered and a cloture motion is offered on that amendment, and that means we have to vote up or down, one way or the other, on the cloture motion the following day but one, meaning tomorrow in this case.

No printed hearings. No committee report. The amendment comes before us much like Minerva, who sprang from the brain of Jove, or Aphrodite, who sprang from the ocean foam. It is the product of a collective fertile mind, and from it will flow fertile confrontations, fertile vetoes and, in all likelihood, it will undoubtedly prove to be a fertile field for exploitation by the lawyers of the country.

It requires each item of any general or special appropriation bill or any joint resolution making supplemental, deficiency, or continuing appropriations that is agreed to by both Houses of Congress to be separately enrolled as separate bills or joint resolutions for presentation to the President. Any appropriations measure that passes both Houses of the Congress will be turned over to the enrolling clerk of the House in which the appropriations measure originated, to be then enrolled as a separate measure for each item in the appropriations bill. Each of these little orphan bills—Little Orphan Annie is going to feel put upon when she sees all these multitude of orphan bills running down to the White House—each of these little orphan bills shall bear the designation of the parent measure of which it was a ward prior to such enrollment, together with such other designations as may be necessary to distinguish each little baby bill from the other hundreds of measures enrolled pursuant to the provisions of the amendment. Each appropriations ''billette'' will contain one item in the original bill and each of these little offspring will be deemed to be a bill under clauses 2 and 3 of section 7 of article I of the Constitution of the United States. Each shall be signed by the Speaker of the House and the President of the Senate, or their designees, and presented to the President for approval or disapproval in the manner provided by the Constitution for bills and joint resolutions generally.

We will take a look at the phraseology of the Constitution on the chart to my left again.

Article I of section 7 of the Constitution provides that, ''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''; note that the Constitution refers to ''every bill which shall have passed'' both Houses of Congress shall be presented to the President for his approval or rejection. But this amendment now reads, in part, on page 4 of the amendment:

> A measure enrolled pursuant to paragraph 1 of subsection (a) with respect to an item shall be deemed to be a bill under clauses 2 and 3 of section 7 of article I of the Constitution of the United States—''shall be deemed to be a bill.''

Well, the Constitution does not say that every bill which may be deemed or which shall be deemed to ''have passed'' the two Houses. It clearly states that every bill which shall have passed. We do not deem it to have passed. We do not consider it to have been passed. We do not think of it as something that has passed. We do not look upon it as something which otherwise may have passed. It is something that passed. Every bill which shall have passed the House of Representatives and the Senate shall be presented to the President for his signature.

Under this rogue amendment, not a single one of the bogus bills enrolled by the clerk of the originating House of Congress will have ''passed'' either the House or the Senate, to say nothing of both Houses. Not a single Senator nor a single House Member will have voted on the cut-and-paste so-called bill which goes to the President. Hundreds of mini-bills will flow from a single appropriation bill or joint resolution, and not one of these ''fictions'' will have ''passed'' the House and Senate in accordance with the requirements of the Constitution. Not one will be a ''bill'' in the traditional sense of the word; each will be ''deemed to be a bill.''

Each will be ''deemed'' to be a bill; each will be pretended to be a bill. Not one will be a bill in the traditional sense.

It will be claimed that this odd construction is in keeping with section 5 of article I of the Constitution which provides that each House may determine the rules of its proceedings.

So there will be those who will say, ''Well, in view of the fact that under the Constitution each House may determine the rules of its proceedings, it is within the power and authority of each House to determine what is a bill. And if the House and Senate want to deem something to have passed, well, that is within the rules of the body.''

But certainly, the Framers could not have intended that any interim rules of the two Houses could invalidate the clear instructions of the Constitution with respect to the passage of a bill.

So if, within our internal rules, we may decide to ''deem'' a certain piece of paper as being a bill, surely the internal rules of the two Houses can never supersede or override the clear language of the Constitution itself which says, ''Every bill which shall have passed the House of Representatives and the Senate, shall, before it become a law, be presented to the President of the United States.''

So the Framers could not have intended that any internal rules of the two Houses could invalidate the clear instructions of the Constitution with respect to the passage of a bill.

Now if a bill may be ''deemed'' to have passed both Houses, then might not the first clause of section 7, article I, be also ''deemed'' in its thrust?

Let us read the first clause of section 7, article I.

> All Bills for raising Revenue shall originate in the House of Representatives.

Now, if Congress may deem this to have been a bill passed by both Houses, why could not Congress deem this to be a revenue bill that was deemed to have originated in the House of Representatives? If Congress may deem a piece of paper enrolled by the clerk of either body, which no Member of the Senate or the House has ever seen, if that may be deemed a bill and be deemed to have passed both Houses, then why not deem this tax revenue measure which originated in the Senate, why not deem it to have originated in the House? That would be as much a use of the internal rules of the Senate as would be the case in the former instance.

There are those who say that, what Congress gives Congress can take away. True. But when Congress seeks to take back this giveaway of its powers, it must be prepared to produce a two-thirds vote in both Houses to override a Presidential veto. This is a lose-lose proposition, as far as Congress is concerned. Appropriations for national defense and for the national welfare would be determined by unelected, unidentified bureaucrats in the Office of Management and Budget, who would determine, for the President, which of the orphan measures may be considered worthy of his signature and which should be the victims of his wet veto pen. No matter what pretty face one may attempt to put on this hydra-headed monster, practically speaking, it will result in a massive shift of power over the purse from the legislative branch to the executive branch.

I know that means little or nothing to some of the Members of this body who have sworn to uphold and support and defend the Constitution of the United States. I realize that means nothing. But, nevertheless, it is there.

The Constitution should not be demeaned and debased by this kind of slight-of-hand work that would result from this amendment.

It is nothing less than legislative sleight-of-hand, and no self respecting Member of the Congress should allow himself or herself to participate in this emasculation of the Constitution to which we have all sworn an oath to support and defend.

The great name of Thomas Jefferson has been frequently used in this Chamber over the past several weeks during the debate on the balanced budget amendment to the Constitution. Let us see what Thomas Jefferson has to say with respect to the passage, the enrollment, and presentation of a bill to the President.

Mr. President, I do not have in my hand a copy of the manual of parliamentary practice by Thomas Jefferson, but I have one downstairs in my office. The title of it is ''A Manual of Parliamentary Practice for the use of the Senate of the United States.'' It is by Thomas Jefferson, first edition, 1801.

On page 73 of Jefferson's manual, it is stated, ''After the bill is passed, there can be no further alteration of it in any point.''

Now those who have been invoking the great name of Thomas Jefferson throughout the debate on the balanced budget amendment to the Constitution, let them hear. Jefferson, in his manual, states, ''After the bill is passed, there can be no further alteration of it in any point.'' And for his authority, Jefferson cites William Hakewill, who prepared a manual entitled ''The Manner and Method How Laws are there Enacted by Passing of bills, collected out of the Journal of the House of Commons,'' 1671. Thus, a bill, as contemplated by this amendment, stripped out of the parent measure and enrolled by the enrolling clerk, presumably on a predetermined form, with a fictitious enacting clause, flies in the face of tradition, custom, and parliamentary practice coming down to us from time immemorial, from the British Parliament, the Colonial Legislatures, the American States that existed before the Constitution, and the practices of 206 years of legislative history under the Constitution. This is nothing less than legislative heresy, and ''With new opinions, divers and dangerous, which are heresies, and, not reform'd, may prove pernicious.'' It is a pernicious amendment, and it is bound to have pernicious effects, if it is written into law.

Let us now take a look at rule XIV of the Standing Rules of the Senate and determine whether or not each of the so-called bills and joint resolutions will have complied with the provisions of rule XIV.

Rule XIV, paragraph 2, reads as follows:

> Every bill and joint resolution shall receive three readings previous to its passage, which readings on demand of any Senator shall be on three different legislative days . . . and the Presiding Officer shall give notice at each reading whether it be the first, second, or third.

Now, are we to pretend, Mr. President, that each of these little illegitimate ''billettes'' which are going to be sent down to the President for his signature, does anyone here have the gall to say that each of these will have been read three times? Well, that is what rule XIV says with regard to bills and joint resolutions. It says:

> Every bill and joint resolution shall receive three readings previous to its passage, which readings on demand of any Senator shall be on three different legislative days.

Paragraph 3, rule XIV, Standing Rules of the Senate:

> No bill or joint resolution shall be committed or amended until it shall have been twice read, after which it may be referred to a committee.

Mr. President, not one of these 2,000 little ''billettes'' will have been referred to a committee. Not one will have been twice read. Not one will have been once read. Not one will have been three times read. Not one will have seen the inside of a committee room, and it will be sure they will see the inside of the enrolling clerk's committee room. He might be able to take them home at night, over the weekend, do his work at home, get a pair of scissors, scotch tape, or old-fashioned library glue and take home some of these pre-prepared forms and enroll the bills. Do it at home.

> No bill or joint resolution shall be committed or amended until it shall have been twice read, after which it may be referred to a committee.

Paragraph 4:

> Every bill and joint resolution reported from a committee, not having previously been read, shall be read once . . .

Not one of these little orphans will have been reported from a committee. And so rule XIV will not be complied with.

> Every bill and joint resolution reported from a committee, not having previously been read, shall be read once, and twice, if not objected to, on the same day, and placed on the Calendar in the order in which the same may be reported.

Not one of these will ever see the calendar. Not one will ever be on that calendar, and we can thank heavens for that, because if all these appeared on the calendar, the calendar itself would weigh, with 13 appropriations bills if they all land on there at the same time toward the close of the fiscal year, the Calendar of Business would be thicker than this stack of bills. That would be an illegitimate calendar made up of illegitimate little bills.

Paragraph 5:

All bills, amendments, and joint resolutions shall be examined under the supervision of the Secretary of the Senate before they go out of the possession of the Senate . . .

Not according to this amendment. They are not going to be examined under the supervision of the Secretary of the Senate. They are going to be examined under the supervision of the clerk of the other body. The Senate will turn over everything to the other body. Let the enrolling clerk of the other body, because that is where the bills are going to originate, let the enrolling clerk in the other body do the enrolling; let him do the cutting and pasting, gluing together. The Secretary of the Senate can take a walk. He will not have anything to do with it.

It says:

. . . All bills and joint resolutions which shall have passed both Houses shall be examined under the supervision of the Secretary of the Senate, to see that the same are correctly enrolled . . .

The Secretary of the Senate is not going to do that under this amendment. Under this amendment, the clerk of the other body will see that they are correctly enrolled.

. . . and, when signed by the Speaker of the House and the President of the Senate, the Secretary of the Senate shall forthwith present the same, when they shall have originated in the Senate, to the President of the United States.

Well, most of these will not have originated in the Senate.

Reading from paragraph 7:

When a bill or joint resolution shall have been ordered to be read a third time, it shall not be in order to propose amendments, unless by unanimous consent, but it shall be in order at any time before the passage of any bill or resolution to move its commitment; and when the bill or resolution shall again be reported from the committee it shall be placed on the Calendar.

When a bill or resolution is accompanied by a preamble, the question shall first be put on the bill or resolution and then on the preamble . . .

So, Mr. President, if there is a preamble on each of these bills—the preamble on the parent bill, I presume, would have to be on each of the little mini-bills, and the question would have been first on the bill and then on the preamble.

No Senator can, of course, say with a modicum of truth and honesty any vote occurred on that bill or preamble.

So much for the Standing Rules of the Senate.

Perhaps that can bear further study on a later date.

The hundreds of little counterfeit bills and joint resolutions will not have received three readings prior to their passage, nor will they have been examined under the supervision of the Secretary of the Senate to see that they have been correctly enrolled.

Simply put, what this amendment does is to require the enrolling clerk of the House, or the Senate, to take appropriation bills as well as direct spending bills and those containing certain targeted tax benefits and break those bills down into numerous parts after they have been passed by both Houses. How many parts would depend on how many numbered sections and unnumbered paragraphs the enrolling clerk found in the complete bills.

To make matters worse, however, section 2 of the amendment requires that any appropriation measures reported by the Committees on Appropriations of the House and the Senate must contain the ''level of detail on the allocation of an item of appropriation as is proposed by that House such as is set forth in the committee report accompanying such bill.'' The same requirement would be placed on conference reports, as well. These requirements could be waived or suspended in the House or Senate only by an affirmative vote of three-fifths of the Members of that House duly sworn or chosen. Similar requirements would apply to tax expenditure and direct spending bills.

What this means, Mr. President, is that the Appropriations Committees would be required to place into each bill all of the literally hundreds and in some cases thousands of items that are now contained in the committee reports and the conference report, whereupon each of these items would then be separately enrolled and become a separate law.

This process fails to recognize that unlike those of States, which are highly itemized, Federal appropriation bills generally contain a number of large appropriations, with the details of how the funds are to be spent set forth in the accompanying reports. This practice has worked well and is favored by the executive branch because it enables agencies to respond to budgetary changes during a fiscal year by moving funds from one area to a more pressing area. This process of reprogramming funds is conducted pursuant to well-established procedures which ensure that the Federal Government can carry out its responsibilities within the general purpose specified in each account.

For example, the Energy and Water Development Appropriations Act for fiscal year 1995 contains a lump-sum of $983,668,000 to cover general construction for the Corps of Engineers. The statute identifies 34 specific projects, totaling $120,126,500. Most of the detail, however, is contained in the conference report, which I have shown, instructing the Corps of Engineers how to spend the nearly $1 billion. Because the instructions are in a nonstatutory source and not a public law, the agency can shift funds within the lump sum in response to their needs—often requiring approval from review committees.

Yet, under the pending proposal, reprogrammings will no longer be possible. Rather, every item listed in appropriations conference reports would be considered an ''item'' and, as such, would be separately enrolled. If that were done, then all of these items would be frozen in their own separate laws and it would be illegal to shift funds from one area to another without a change in statute. This would mean a large increase in congressional workload. For every mid-course correction needed by every agency of Government, the President would have to seek legislation and we would have to enact every shift in funds. Imagine how inefficient and cumbersome this would be.

I asked our Appropriations Committee staff to count up the number of ''items'' there are in each of the fiscal year 1995 appropriations acts and conference reports which would have to be separately enrolled under the pending amendment. Senators will recall that, under section 2(c)(1) of the amendment, it will not be in order to report an appropriation conference report that fails to contain the level of detail of an item of appropriation such as is set forth in the statement of managers accompanying that report. This means that every appropriation now named in these statements of managers will have to be placed in the conference report and, subsequently be separately enrolled and sent to the President as a separate minibill which, if the President signs it, will become a separate law.

One of the 1995 appropriation acts with the largest number of items is the Energy and Water Development Appropriation Act.

And as I have already demonstrated, the law is 17 pages in length and the statement for which every item has been provided is 116 pages in length.

These two documents—the Public Law and the conference report containing the statement of managers—are the culmination of months of hearings, of subcommittee and full committee markups, of passage by the House and Senate, and of a conference to settle the differences between the two Houses. After all that work, and after adoption of the conference report and the amendments in disagreement, this appropriation bill finally became a public law and it is being carried out pursuant to this conference report and statement of the managers.

Mr. President, as I have already shown, this stack of paper has been prepared for the Energy and Water Development Appropriation Act for 1995 in conformance with Mr. DOLE's proposal. And just in case there may be some Members or staffs or people out there in TV land, this is the energy and water—I cannot say bill. These are the 2,000 odd bills that would be enrolled by the clerk of the other body and sent down to the President and which in fact constituted the one bill, which had only 16 pages, which is referred to as Public Law 103–316 that is the energy and water appropriation bill. That is it, 17 pounds—17 pounds.

Each of those would have to be signed by the President pro tempore and the Speaker of the House, and each would have to be signed by the President, unless he decided to veto them or not sign them and let them go into law without his signature. He might ease

his workload by following that course of action.

Each of the items contained in that public law, which I hold in my hand—right here—itemized in the tables of the conference report have been enrolled separately pursuant to section 4 of the amendment that has been offered by the distinguished majority leader. Each item of appropriation will have to be separately signed by the Speaker of the House and by the President of the Senate, and so instead of that one public law and that one conference report we will have over 2,000 public laws for just one appropriation act.

Mr. President, is this not sheer madness? Sheer madness. All 12 of the other appropriation acts will face similar requirements. The estimates are that if the amendment offered by Mr. DOLE had been in effect for fiscal year 1995, the Agriculture Appropriation Act would have been broken down into 757 separate acts; the Commerce, Justice, State, and Judiciary Appropriation Act would have been broken down into 924 acts; the District of Columbia Appropriation Act would have been broken down into 165 little enrolled bills which later became acts, public laws; the Energy and Water Development Appropriation Act as I already have said would have been broken down into 2,000 acts; the Interior Appropriation Act would have been broken down into 1,000 separate acts; the Labor, Health and Human Services, Education Appropriation Act would have been broken down into 200 acts; the Transportation Appropriation Act would have been broken down into 750 acts; the Treasury, Postal Service Appropriation Act would have been broken down into 479 acts; the Defense Appropriation Act would have been broken down into 2,000 acts; the Military Construction Appropriation Act would have been broken down into 225 acts; the Foreign Operations Appropriation Act would have been broken down into 225 acts; the VA/HUD Appropriation Act would have been broken down into 800 acts; and the Legislative Branch Appropriation Act would have been broken down into 100 acts.

Perhaps we should call them actlettes, 100 actlettes.

That comes to a total of 9,625 minibills, or billettes or actlettes, or public lawlettes—public lawlettes, 9,625 that would have been necessary in 1995 rather than the 13 annual appropriation acts under which we are currently operating.

So, here we will have passed 9,625 public laws and I would have gotten credit for only voting on 13 of them—13; 13 rollcall votes. I answered every one of them, yet there would have been 9,625 separate legislative acts, not one of which passed the House or the Senate, to say nothing of both Houses.

Since most of the annual appropriation bills are not finalized until the last few days before the beginning of the fiscal year to which they apply, one can see that this proposal, if enacted, would succeed in bringing the appropriation process to a virtual standstill. It would also be next to impossible for the President to approve these thousands of bills before the beginning of the fiscal year, because there would be no practical way to process that many bills, get them signed by the Speaker and the President of the Senate, sent to the White House, and signed by the President in such a short time.

Therefore, what we would be setting up is a more complicated process under which a President and a Congress, through no fault of their own, would not be able to complete its work in a timely fashion. We would be virtually guaranteeing a return to government by continuing resolution.

But, on the other hand, think of the increased media attention it will bring to bill-signing ceremonies.

I have been down at White House on a few occasions, a few occasions. I have attended bill-signing ceremonies. The distinguished Senator from Nebraska has been there on bill-signing ceremonies. We stand there behind the President. We might even get up against him so we can say to our grandchildren, this coat—this coat touched the President's coat. See? This coat touched the hem of his garment. And the President signs the bill, just a little bit at a time, and hands back the pen; signs another little portion and hands back the pen.

I take that pen home and have it framed and I am able to tell my grandchildren that there is a pen that the President used in signing such and such a bill. Yes, the pen, he gave it to me. I never would have thought it, this boy from the hill country—I never thought I would be in the White House, never would have thought I would have been in the Oval Office. And here, just to think of it, here is a pen that the President signed the bill with and gave it to me.

''Aren't you proud of your grandpa? Aren't you proud of your grandfather?''

My, what I have been missing, though. I have only had a few of those pens.

Now think of the increased media attention that would be given to one of those bill-signing affairs. For just the Energy and Water Development Appropriation Act the President would have to sign all these 2,000 little minibills. That would become an all day affair; let us go down there for a whole day, the whole day. You would have to go down to the White House early in the morning with the subcommittee chairman, in this case it would be Mr. DOMENICI, and Mr. JOHNSTON.

We would go down with the subcommittee chairman and ranking member, leading the honored guests along with their House counterparts. The President and appropriate members of the Cabinet would greet the congressional delegation out on the White House lawn—would you say? Out at the Rose Garden. They would be all lined up out there in the Rose Garden. Up would drive one of these 16-wheelers, a big truck. It would back its way up to the gate and they would start unloading all those pens to sign those bills.

After a photo-op, the President would take out his first of many pens and begin to sign this stack of 2,000 or so bills into law. He would hand out pens to the gathered congressmen. There might be 24 separate laws for New Mexico projects, so Senator DOMENICI would get 24 pens. Perhaps Louisiana would have 32 projects and, therefore, 32 laws. So, Senator JOHNSTON would get 32 pens, and so on.

This process of signing over 2,000 minilaws would take quite some time. There would probably have to be a lunch break, followed by more signings in the afternoon. The President would say ''You boys''—he would call us boys. I would not think anything of it, he calling me boy. My mom used to call me boy. She would say, ''ROBERT, you be a good boy. I'll always pray for you.'' He would say, ''You boys come back this afternoon after lunch and we will finish signing these bills.'' Of course we would be back because we would not want to miss out on our pens.

I expect he would draw a good deal of attention. It would become a very popular ritual for Congress and the President alike.

Now, let us look at what happens when a President decides he does not——

Mr. EXON. Will the Senator yield for a brief question?

Mr. BYRD. Yes.

Mr. EXON. I have been listening with great interest. The Senator left out whether or not he has made any calculation as to what the cost to the taxpayers would be, for all of those pens? Do you have any estimation of what that would be, in dollars, at the present time? Or is that just a minor matter?

Mr. BYRD. It is not a minor matter. We put it on the computer and the computer blew up. We tried to get that information out of the computer and the computer blew up.

Mr. EXON. Gone.

Mr. BYRD. Gone.

Mr. EXON. More expenses to the taxpayer. I thank my friend from West Virginia.

Mr. BYRD. I thank the Senator from Nebraska. I am sorry he has decided to retire, after this term. We will miss him and he will miss receiving all those pens. He will miss traveling down to the Rose Garden, having the President hand him all those pens, for items that are in the bill for Nebraska.

Seriously, I do say I shall miss him. He is a stalwart Member and one who is forthright always with what he says. He has a backbone, the courage of his convictions.

Now let us look at what happens when a President decides he does not care to sign a number of these many

thousands of appropriation bills. In this case, those unsigned bills must be returned to the House of Congress which originated them. In the case of appropriation bills, the overwhelming majority will have originated in the House of Representatives. Therefore, any of these thousands of annual appropriation bills which the President returns unsigned will go to the House of Representatives. Under article I, section 7, clause 2 of the Constitution, the House of Representatives will then have total control of whether, and if so, when to schedule a veto override vote. Let us say, for example, that a President decides that he will not sign 5 percent of these thousands of appropriation bills. The other 95 percent are fine—they get the blessing of the President's unelected advisers. But these same advisers recommend, and the President agrees, that 5 percent of them should not be signed. That is not an unlikely scenario. The President's OMB personnel will have scoured every one of these thousands of bills and they are likely to find reasons to send a number of them back to the House of Representatives; in this example 5 percent, or several hundred of the bills are returned. What happens next? Under the Constitution, that will be left entirely up to the House of Representatives. If the House decides not to schedule a veto override vote on any or on all of these returned bills, that is the end of it. The Senate will have no say in the matter. Are Senators prepared for that state of affairs? Are you prepared, Senators, to have to beg the House to take up a vetoed bill?

I say to the Senator from Michigan, the able Senator from Michigan [Mr. LEVIN], are you prepared to go over to the other body and beg the House to take up that vetoed bill so that you at least get a vote in the other body on the item that is of importance to your State?

Mr. President, this amendment, in the opinion of various scholars, would be, in all likelihood, unconstitutional. For example, in recent testimony before the Senate Judiciary Committee, Mr. Walter Dellinger, Assistant Attorney General of the U.S. Department of Justice, made the following statement:

> As much as I regret saying so . . . [the] proposal for separate enrollment also raises significant constitutional issues, you know, that would atomize or dismember one of these large appropriations bills into its individual items which the President could then sign. I think it is either invalid under the clause, in my view, or, at a minimum, it raises such complicated questions under the Presentment Clause that it is a foolhardy way to proceed because if we and all of our predecessors are right, I think that which has to be presented to the President is the thing that passed the House and the Senate, and that which passed the House and the Senate is the bill they voted on on final passage, not some little piece of it or a series of little pieces of it. So I have doubts about it.

That was Mr. Walter Dellinger, constitutional scholar, speaking.

Mr. President, although the bill before us today is being touted by its sponsors as a line-item veto bill, that description is not correct. This bill would not give the President line-item veto authority. The only way for Congress to confer such power is through an amendment to the Constitution. It cannot be done by mere statute. Therefore, a fundamental thing that needs to be said about this bill is that it is not, in any way, shape, or form, a line-item veto measure.

We could not give the President a line-item veto. Congress could not pass that power on to the President. Only the people could do that by way of constitutional amendment. But we could be just as effective in shifting the power of legislative branch over the purse to the President by way of a statute. That is what is about to occur.

Indeed, I question why, if not for partisan political reasons, anyone would tell the American people the Senate is considering a line-item veto bill, when, in fact, we are not?

In fact, we are not. That kind of misinformation does nothing but confuse, mislead, and further alienate an already cynical public. So Senators can disabuse themselves of that notion right from the start. No one is going to be able to go home, and, in all honesty, claim political favor by telling the voters they were for or against the line-item veto.

Instead, what we have before us is a separate enrollment bill, an enormously different creature. In short, what we have here is a slice-and-dice approach to legislating.

I have been in the legislative branch for 49 years. I have never seen anything like that.

Semantics aside, though, what the proponents of this measure have presented to the Senate is a piece of legislation that would set up a logistical nightmare, that would create an unworkable process, and that is obviously not well thought out. This is the product of a desperate political compromise aimed at getting anything through Congress which can be mislabeled line-item veto.

Logistics are not, however, the only problem. In fact, they are not even the most serious. What is fatal to this measure, as it would be with any type of separate enrollment procedure, is that the entire scheme is unconstitutional—unconstitutional. My colleagues and I have been in this business for years. This is my seventh term. I am in my seventh term. Seven times I have asked the people of West Virginia to return me to the U.S. Senate, and three times in the other body prior to my coming to the Senate, two times in the State House and once in the State Senate. In all of those years, not once have I ever met a creature like this, a bill that is not a bill, but call it a bill; and we deem that it is passed in the House and the Senate.

What is fatal is that this bill is not constitutional, in my judgment.

Anyone who reads the plain language contained in the first and seventh sections of article I of the Constitution will see this to be true. For those who I suggest are attending a matinee and who arrived late on the scene, let me read again. Read the words, those two sections and one will see why this measure violates the supreme law of the land.

Article I, section 1, states:

> All legislative Powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives.

So there are 25 words that state where legislative power under the Constitution will vest. It will vest in a Congress of the United States which shall consist of a Senate and a House of Representatives. All legislative power will repose in this branch, this legislative branch.

With those 25 words, the very first sentence of the Constitution, the Founding Fathers established the doctrine of separation of powers.

We find in section after section, article after article, paragraph after paragraph, following on that first section of the first article the doctrine of separation of powers laid out in great detail.

They explicitly placed all legislative powers in a Congress. The power to fashion the laws that guide this Nation, the power to repeal those laws as we see fit, and the power to amend a bill as it makes its way through the two Houses of Congress, those powers reside here in the Congress. The Constitution does not confer those powers upon any other individual, or upon any other branch of government.

The President is not licensed by those powers, by those words, to legislate.

All legislative powers herein granted shall be vested in a Congress of the United States which shall consist of a House and a Senate and a House of Representatives.

The Constitution does not confer those powers upon any other individual, upon the President, upon any enrolling clerk, or upon any other branch of government. The President is not licensed by those powers to legislate. He alone cannot pass a bill. The President alone cannot repeal a bill. The President alone cannot amend a bill. Only the Congress has such power.

May I say to the distinguished Senator from Nebraska, and the able Senator from Michigan, that under this bill things will have changed.

Under this amendment, the President would be given legislative power. Do you believe that? He will have been given legislative power. Now, if I hope to get an amendment added to the bill, I send to the desk an amendment, the clerk reads the amendment, and the question is then on the amendment by the Senator from West Virginia. If the Members of the Senate, or the majority thereof, support my amendment, it is added to the bill. That is not enough. That amendment has to be agreed to in

the other body. So I cannot amend a bill; I can only be an instrument in the amending of it. I alone cannot amend a bill. It requires a majority of both Houses to support the instrument which I send to the desk in the form of an amendment.

But under this amendment which Mr. DOLE has introduced, and which is cosponsored by several Republican Senators, the President alone can—by his hand alone—repeal a bill. Here is a section of the bill that is sent to the President by the enrolling clerk. Here is another section of the bill. Here is another item of the bill sent down by the enrolling clerk. The President may, by his wet veto pen, strike that one. He has amended that bill by his veto pen. He may strike that one. That is a whole section. He amended that bill—one man alone. And if two-thirds of both Houses do not override him, then he has altered that bill; he has amended it just as surely as I would have amended the bill by sending a piece of paper to the desk, having a number on it and striking from the bill that particular section. One man will have the power that only a majority of both Houses on the hill here could have in amending a bill.

So he will have been given the power, unilaterally and selectively, to change what had previously been passed by the legislative branch. Through a separate enrollment procedure, the President becomes the legislative equal with the House and Senate, because he would have the power to amend. No longer would the Congress be the sole legislative body in our tripartite system. That is why this bill implicitly vitiates the separation of powers, because it hands to the executive branch one of the most important characteristics of legislative power.

The ability to amend legislation, and the right of extended debate, are the two most important features that set the U.S. Senate apart from every other legislative body in the world. This is the only upper Chamber that has essentially unlimited amendment and debating powers. With very few exceptions, which we ourselves have instituted, the Senate can take any bill passed by the House of Representatives and change that bill any way the Members think necessary and proper. But under the process contained in this bill—I will call it a bill; it is a substitute bill introduced by the majority leader—under the process contained in this bill, the President would share that power. If he were to veto even one of the thousands of bills created as a result of separate enrollment, he would have altered the original bill agreed to by the House and Senate. And that original bill, may I say to the Senator from Nebraska, that original bill, may I say to the Senator from Michigan—if the amendment stricken by the President had been stricken by the Senate or by the House, the bill may never have passed, because it would have been altered. Yet, the President can do that if the substitute bill is agreed to. He would not have vetoed the entire bill; he will have altered the bill. He would have vetoed only a portion of it, thereby amending the underlying bill.

How does that situation square with the words in article I, section 1 of the Constitution, that ''all legislative powers'' herein granted ''shall be vested in the Congress of the United States.'' The ability to amend is a legislative power, and all legislative powers are to be vested in the Congress of the United States. How, then, can anyone stand here and say they see no infraction of the clear mandate contained in the Constitution? How can it be claimed that a President who can amend has not been given legislative power?

The U.S. Supreme Court, in its landmark ruling in the 1952 case of Youngstown Sheet and Tube Company versus Sawyer, the steel seizure case, spoke to the argument perfectly. The Court said:

> In the framework of our Constitution, the President's power to see that the laws are faithfully executed refutes the idea that he is to be a lawmaker. The Constitution limits his functions in the lawmaking process to the recommending of laws he thinks wise and the vetoing of laws he thinks bad. And the Constitution is neither silent nor equivocal about who shall make laws which the President is to execute.

Mr. President, recommending laws and vetoing laws are the only two lawmaking functions that constitutionally confer to the President, according to the Supreme Court. They did not include the power to amend. They did not say the President is authorized to selectively amend what has previously been passed by the Congress. All the Constitution allows, as interpreted by the Court, is the vetoing of laws.

In addition, this question of procedure, as it pertains to the separation of powers, is hardly academic. It goes to the very heart of our constitutional form of government. Again, I refer my colleagues to the words of the Supreme Court. In its 1982 ruling in INS versus Chadha, the Court noted that:

> Explicit and unambiguous provisions of the Constitution prescribe and define the respective functions of the Congress and of the Executive in the legislative process.

Those provisions, the Court said, ''. . . are integral parts of the constitutional design for the separation of powers.'' Thus,

> It emerges clearly that the prescription for legislative action in Article I, sections 1,7, represents the Framers' decision that the legislative power of the Federal Government be exercised in accord with a single, finely wrought and exhaustively considered, procedure.

But in no way would this new process coincide with the ''single, finely wrought and exhaustively considered, procedure'' contained in article I.

Separated powers, and the system of checks and balances that maintain the separation, were not an abstract or fleeting concept to the men who framed our Constitution in Philadelphia. The doctrine is writ large throughout the entire document. It is fused into every article, every section, and nearly every clause of that great charter. One need only read the Constitution to understand how fervently our Founding Fathers embraced separated powers. But with this measure, we say those ideals are not really important, that they do not matter. I am not prepared, as others may be, to declare myself so wise as to be willing to undo what was so finely done more than 200 years ago.

As such, all Senators effectively lose the power of their vote. We would be creating a glut of little ''its''—note that in the Constitution it refers to ''it,'' ''it,'' ''it''—the pronoun with the antecedent ''bill.'' ''It.'' There is not going to be any ''it'' with an appropriation bill that passes if this amendment by Mr. DOLE is ever adopted. There will be hundreds and hundreds of little ''its.'' Read the bill. Read it and see how each of us gives up the right to vote on any of the new bills.

We will not have voted on a single one of them. Not one of the bills that goes to the President will have been voted on by Mr. LEVIN. Not one. This amendment by Mr. DOLE does not say where the original bill will be kept. Nobody knows what happens to it.

The enrolling clerk in the House presumably can just throw it in the wastebasket.

Read the bill. Read it and see how each and every one of us gives up the right to vote on any of the new bills.

Mr. President, what this charade amounts to is a colossal non sequitur. It simply does not make sense. On the one hand, we are being told that a bill is a bill, which means the President can veto it. On the other hand, though, the sponsors turn right around and claim that a bill is not necessarily a bill—it can be ''deemed'' to be a bill—so it does not need to be passed by the House and Senate. Which is it? When does a bill become a bill? How can the sponsors of this legislation tell us that any of those new bills are not really a bill? How can they claim that the process created under separate enrollment is a constitutional process? They cannot.

Even the authors of this legislative sorcery agree that, on its own, the separate enrollment process cannot meet the test of constitutionality. Again, I implore Senators to read this measure which is now pending before the Senate. Read section 4(b), starting on page 4, line 8. It says, and I quote:

> A measure enrolled pursuant to paragraph (1) of subsection (a) with respect to an item shall be deemed to be a bill under Clauses 2 and 3 of Section 7 of Article 1 of the Constitution of the United States and shall be signed by the Speaker of the House and the President of the Senate, or their designees, and presented to the President for approval or disapproval (and otherwise treated for all purposes) in the manner provided for bills and joint resolutions generally.

So here, Mr. President, we have a clear acknowledgement, an absolute declaration from the very people who

wrote this bill that the process that they want to codify is unconstitutional. They are not talking about bills. They are talking about counterfeit measures that are deemed to be bills.

So this is an absolute declaration from the very people who wrote the bill that the process they want to codify is unconstitutional, that it does not meet the standard set up under article I of the Constitution.

The authors say, right there in that passage, that ''a measure enrolled pursuant to paragraph (1),'' which means taken out and separately enrolled, ''shall be deemed to be a bill.''

Now, what does the dictionary say that ''deem'' means? Deem means to consider—considered to be a bill; to be considered. We will just pretend that it is a bill, may be thought of as a bill, but when you strip all that language away, it is not a bill. If it were a bill, it would not say it may be ''deemed'' to be a bill.

The authors say right there that ''a measure enrolled pursuant to paragraph (1),'' which means taken out and separately enrolled, ''shall be deemed to be a bill'' for purposes of the Constitution.

So how can any of my constituents hold me responsible for the enactment of any one of these little billettes, these little illegitimate offspring of unknown parents? How can anyone hold me responsible for having voted for them, those thousands of new little ''its'' that were created through the separate enrollment process, that are going to be ''deemed'' to be bills? What the sponsors are admitting in that language is that those new bills are not, in fact, really bills. They readily concede, right there in their own legislation, and in their own words, that all those new little ''its'' are not bills.

If a piece of legislation that comes about as a result of being separately enrolled is an actual bill, then why is it necessary to have it ''deemed'' to be a bill. The answer is that the deeming is required because none of those minibills are, in reality, legal, constitutionally enacted bills. And the authors of this measure know that fact.

I can assure my colleagues that none of this is some misguided conclusion arrived at as a result of applying a radical new interpretation to the Constitution. This is not judicial logic gone awry. Quite the opposite. It is the considered judgement of renowned scholars that a separate enrollment procedure is unconstitutional on the grounds that it violates the presentment clause as written in Article I, section 7, clause 2.

The truly sad fact in all of this, is that we do not need to proceed along these lines. We do not need to trample on the Constitution to accomplish what is intended. We have an alternative option, which everyone agrees is constitutional. The bill originally introduced by Senators DOMENICI and EXON, S. 14, would accomplish the goal of guaranteeing the President a vote on his rescission proposals. And, most importantly, it would do it through a process which does not sacrifice to the alter of political expediency the sacred tenets contained in the United States Constitution.

S. 14 would have allowed the President to go through any appropriations bill and any tax bill containing targeted tax expenditures and excise those items he felt were unwarranted. The Congress would then have been forced to vote on each of those proposals. It would not have created an unworkable process. It would have maintained the separation of powers. It would have been constitutional. But for some reason, the authors of the bill before us do not want that. They are not satisfied with the procedure in S. 14. In short, they are apparently not happy unless we ravage the most important constitution ever laid down in writing.

The procedure which is set forth in this amendment is not, in my opinion, in agreement with the words of the Constitution which govern the passage of a bill. It is not in agreement with those words. The Constitution, in article I, section 7, clause 2, says that a bill shall have passed both Houses before it is presented to the President. It is interesting to note that those who wrote the Constitution in clause 2 referred to a bill, whereas in clause 3 of section 7 of article I, they wrote of resolutions, orders, and votes. In other words, they covered the entire legislative landscape. They knew exactly what they were doing.

Whatever the particular vehicle—whether it be a resolution, or vote, or an order. Of course, orders do not go to the President for his signature; votes do not go to the President for his signature; resolutions do not go to the President. So whatever the particular vehicle, it had to travel the same legislative course outlined in clause 2 for a bill. In other words, whatever it is, it has to be passed by both Houses and presented to the President. He may then sign it, veto it, or let it become law without his signature, or he may give it a pocket veto, depending on the circumstances.

Furthermore, nothing in the pending amendment would deal at all with the more than $400 billion of lost revenue each year that results from existing tax expenditures. I know Senators have heard the proponents of this proposal say that it is very broad. They say it will cover everything—appropriation bills, direct spending bills, and bills containing tax preference items. But is that true? The answer is no.

All any Senator has to do is read the language of the amendment. It reads as follows, as it related to entitlements and targeted tax benefits in section 2(b)(1) on page 2 of the amendment:

A committee of either the House or the Senate shall not report an authorization measure that contains new direct spending or new targeted tax benefits unless such measure presents each new direct spending or new targeted tax benefit as a separate item and the accompanying committee report for that measure shall contain such level of detail including, if appropriate, detail related to the allocation of new direct spending or new targeted tax benefits.

So, there you have it. This proposal will not touch one dollar—not one thin dime—of any existing direct spending program or any of the 124 existing tax expenditures. Not one dollar. Not one dime. Not one copper penny. The problem is, you see, that once these tax breaks are written into law, they rarely get reviewed again. And, nothing in the amendment that is before the Senate will require that these existing tax breaks should be looked at and made subject to veto by the President, just like annual appropriation bills.

These are the tax dollars that are lost to the Federal treasury due to special provisions contained in the Federal Tax Code. These various provisions allow deductions, exemptions, credits, or deferrals of taxes and, in effect, reduce the amount of tax paid by those who qualify for such items. The word ''expenditure'' is used to highlight the fact that these tax preference items are, in many respects, no different than if the government would write a check to the different individuals or businesses who qualify for them.

The plain truth is that tax expenditures are nothing more than another form of government spending. Unfortunately, they receive little, if any, scrutiny because they are not subject to the annual authorization or appropriation processes that other programs are subjected to. Rather, once they are enacted into law, tax expenditures rarely ever again come under congressional scrutiny. In fact, in a June 1994 report on this issue, the General Accounting Office found that almost 85 percent of 1993 revenue losses from tax expenditures were traceable to provisions enacted before 1950, while almost 50 percent of those losses stem from tax expenditures enacted before 1920.

Because these tax breaks have largely escaped congressional review, many have simply outlived their economic usefulness. But until they come under the same scrutiny as other Federal spending, we will not know for sure which ones should be modified or eliminated and which ones should be kept.

We do know that, like entitlement spending, tax expenditures are projected to grow dramatically over the next several years. In a committee print issued in December 1994 by the Senate Budget Committee entitled, ''Tax Expenditures, Compendium of Background Material of Individual Provisions,'' the aggregate cost of these provisions will equal $453 billion for fiscal year 1995 and will rise each year thereafter to a total of $568.5 billion in fiscal year 1999.

The cumulative increase for those 4 years will equal $283.9 billion. That level of increase dwarfs the total amount that is spent each year on our

entire domestic discretionary budget which amounts to only $225.5 billion for fiscal year 1995 and is not projected to grow at all over the next four years. In fact, to the contrary, it appears that domestic discretionary spending will be called upon to suffer even further cuts below a hard freeze than are already contemplated under OBRA 1993.

When one considers that this area of the budget alone, namely, tax expenditures, escapes the deficit-cutting axe that is being faced by discretionary spending and hopefully to the area of entitlement spending as well, it is little wonder that special interest groups find these tax breaks to be very appealing.

I am not saying that all tax expenditures are bad. In fact, many serve a worthwhile public purpose. The earned income tax credit has benefited many hard-working Americans by lifting them out of poverty and has enabled them to be able to support their families. A number of others—such as those for charitable contributions, home mortgage interest deduction, as well as a number of others—clearly serve a useful purpose and are in the national interest. But I am convinced that a number, perhaps a large number, of the more than 120 separate tax expenditures in current law could be either modified or eliminated altogether.

In its June 1994 report on this subject, the General Accounting Office recommended that tax expenditures should be further integrated into the budget in order to highlight the vast resources lost to the Federal Government by these tax breaks. Moreover, these expenditures should have to undergo periodic program reviews within the congressional tax-writing committees. One way to ensure such scrutiny would be to sunset most tax expenditures, thus requiring the reenactment of those that are still worthwhile at regular intervals. But, as I have shown, this amendment fails to do that.

And I am fully prepared to work with my colleagues in attempting to enact legislation that would improve the existing rescission process and would guarantee that a President's rescission proposals get considered and voted upon—just as the proposal that was authored by Mr. DOMENICI and Mr. EXON would have done—and, further, that any savings resulting therefrom be applied only to deficit reduction. What I am unwilling to do is to support any legislation that does not adequately guard the constitutionally granted congressional power of the purse.

I believe that the separate enrollment measure is constitutionally flawed and would so encumber the existing appropriations and rescission processes as to make it impossible for Congress and the President to meet their responsibilities of enacting the annual appropriation bills by the beginning of each fiscal year.

Finally, and critically important, Mr. President, this amendment will not result in any deficit reduction whatsoever. None. Zilch. The reason that is the case is because nothing in the amendment reduces Federal spending. Under this amendment, any savings that might result from vetoes of items in appropriation bills, or from vetoes of new direct spending or new tax breaks, will not go toward deficit reduction. Instead, those savings can simply be spent on something else. That is the case because, unlike S. 14 or the Democratic alternative, which Mr. DASCHLE will present, nothing in the Dole proposal reduces the allocations of committees by the amount of the savings that will result from the vetoes. Incredible as it may seem, the substitute does not apply any of these spending cuts toward reducing the deficit. The authors of the proposal, therefore, have chosen to allow all spending reductions under their ''Separate Enrollment and Item Veto Act of 1995'' to be respent, rather than be applied to deficit reduction.

So, Mr. President, I urge my colleagues to defeat this proposal and to vote for the Democratic alternative that will be presented by the distinguished minority leader, which many of us will cosponsor, and which will apply all of its savings from budget cuts to deficit reduction.

I thank Senators who have patiently waited, and I yield the floor.

Mr. COATS addressed the Chair.

The PRESIDING OFFICER (Mr. CAMPBELL). The Senator from Indiana is recognized.

Mr. COATS. Mr. President, I appreciated the comments of the Senator from West Virginia. I have been anticipating his arrival on the floor to debate this issue. It is an important issue. It deserves full discussion and debate.

We began this latest discussion, of course, on Thursday evening of last week. Senator MCCAIN and I discussed our proposal at length and then, of course, we debated on Friday and all day Monday, and now it is Tuesday.

Last evening, the majority leader offered an amendment to the original proposal, offered by Senator MCCAIN and myself, which, in this Senator's opinion, substantially strengthens the effort which we are undertaking by expanding the scope of the line-item veto to include not just appropriations, but targeted tax expenditures, any new direct spending and new spending in entitlements that change the law which currently exists. It does not mean that new enrollees are not subject to the benefits of entitlements as they currently exist on the books. But it means that if attempts are made to expand those categories and to provide new spending, they are also incorporated.

These were suggestions offered by Members of the Congress, in particular Senator STEVENS of Alaska, Senator DOMENICI of New Mexico. We negotiated these changes. Many of these ideas originated in years past, some of them offered by Senators from the other party.

I do not intend to take a great deal of time in responding to the comments of the Senator from West Virginia. However, there are several points I wish to make.

The Senator from West Virginia began his presentation by citing—and I believe I am correctly quoting him—the ''frenetic efforts of Republicans'' to bring a measure to the floor. Yes, there was considerable negotiation, but it is negotiation upon a core and a base of discussion around a concept which has been very much a part of the history of this body.

Recent history, of course, in the last decade or so has shown that a number of attempts have been made to bring line-item veto to a vote in this body. All of them have been unsuccessful. There have been a number of votes, all falling short of the necessary votes to either waive provisions of the Budget Act or to break an attempted filibuster of the effort.

So we have not been able to achieve 60 votes to bring the matter to full debate and vote. But the concept of separate enrollment has been discussed before on this floor at length and voted on, at least in a procedural way. The underlying concepts of either enhanced rescission or a process described as line-item veto or a discussion of line-item veto, all of this has been very much a part of the debate and discussion that has been present on this floor during the past decade. But the concept of line-item veto goes back historically much further than that.

In fact, it was in 1876 that then Representative Charles Faulkner of West Virginia introduced for the first time the line-item veto concept. It was referred to the Committee on the Judiciary where it there died, and since that time about 200 line-item veto bills have been introduced. In fact, in nearly every succeeding Congress a proposal has been offered in varying forms but all centered around the same basic premise, and that is will this legislative body cede to the President some semblance of authority to provide a check and balance against the spending power exercised by this body.

Now, as the Senator from West Virginia has enumerated, we are all well aware of the provisions of the Constitution article I, section 7, which outlines the procedures by which the legislature passes legislation and by which the President approves it. And of course, article I, section 7 clearly grants to the President the power to reject what the Congress has proffered to him, or perhaps return is a better word. It says that ''If any bill shall not be returned by the President within 10 days after it shall have been presented to him, the same shall be a law, in like manner as if he had signed it.''

But it also says that the President may ask this body to reconsider what it has done and send back to us bills that we have forwarded to him and it will require two-thirds vote of each body, both the House and the Senate,

in order to overturn what the President has done.

So the constitutional authority for the President to veto or reject or return, however you want to phrase it, what this legislature has presented is obviously well established as a part of the Constitution. But the separate question is do we want to go one step further in allowing the President the right within the legislation sent to him to line item items back to this legislature, to look at the legislation that we send to him and give the President the opportunity to say I will accept this portion but not that portion. I will accept most of what you sent but I want you to reconsider that separate portion.

That really is the question before us. As I said, there have been nearly 200 attempts to do that. Most of those have died in committee. Very few have been reported, and those that have were mostly reported with adverse recommendations.

Our Founding Fathers discussed this issue. They were concerned about the balance of power between the respective branches. That is why I believe they wrote the veto power in the Constitution to the President. But they were concerned about the unchecked power, the unbalanced power of the legislative branch over the executive branch. In the Federalist Paper No. 73, it was Hamilton who had this to say about the executive veto.

> The first thing that offers itself to our observation is the qualified negative of the President upon the acts or resolutions of the two houses of the legislature; or, in other words, his power of returning all bills with objections to have the effect of preventing their becoming laws, unless they should afterwards be ratified by the two thirds of each of the component members of the legislative body.

Mr. BYRD. Will the Senator yield? Will the Senator yield for a question?

Mr. COATS. I would like to be able to give my statement and then I will be happy at the end of that to yield. I know the Senator would have many questions. I do not want to spend an excessive amount of time because there are other Senators waiting to speak. If I could go through my statement and then address the question, I would prefer to do that.

Mr. BYRD. Very well.

Mr. COATS. Presidents throughout our history have asked for the line-item veto. It goes all the way back to Ulysses Grant. It was President Truman who said:

> One important lack in the Presidential veto power, I believe, is the authority to veto individual items in appropriations bills. The President must approve the bill in its entirety or refuse to approve it or let it become law without his approval.

He later went on to say that it was a form of ''legislative blackmail''—those are his words, legislative blackmail—when the legislature sends to him a bill it otherwise knows needs to be approved by the President or else the Government will cease to function or else important appropriations for the provision of our national defense or for the meeting of national emergency will have to be vetoed by the President or accepted in whole even though it contains items which the executive feels are not in the national interest and bear no relationship to the legislation that is sent to him.

It is that practice that brings us to this point. It is the practice of a Congress which has discovered that under the powers granted to it by the Constitution rests and resides what I would term as an abusive power, a power that does not go toward meeting the needs embodied in the original appropriation or the original bill that is sent to the President but which goes toward placating or pleasing an individual parochial interest and is attached even though it is totally irrelevant to the purpose for the original appropriation, attached because, as President Truman said, we can hold this over the President's head knowing that he needs this particular expenditure in order to meet a pressing national need and his choice is limited to accepting the whole or rejecting the whole.

It was in 1974 that this Congress stripped the President of his executive power that was being exercised to impound funds, the power that was exercised routinely from every President from Thomas Jefferson to Richard Nixon. In fact, it was Jefferson who first employed the power to refuse to spend appropriated funds in 1801 when he impounded $50,000 that was appropriated for Navy gunboats. And it is the particularly egregious practice, in this Senator's opinion, of loading up otherwise necessary appropriations with items that are deemed unnecessary, that necessitates, through line-item veto power, a check and balance for the President, a restoration of the check and balance power that allows someone—in this case the Executive—to put a question mark on what we have done and to say, ''If you really believe that is a necessary item, you have the constitutional power to override my objection by a two-thirds vote.''

What that does is it sheds the light of public exposure, public debate, and individual vote—an individual yea or nay on a particular item—so our constituents, those we represent, have the ability to examine how we have handled their tax dollars so that they can hold us accountable, either favorably or unfavorably, for our actions, not on a massive bill as a whole but on an individual item.

No longer will we be allowed the excuse of saying, ''Yes, I voted for that particular measure, not because it contained the items you object to, but because it had such a pressing national interest that it overrode the specific objections.''

Our constituents say, ''But why did you not protest that particular item?'' Frequently we find that particular item was buried deep within a bill that was rushed to the floor to meet some national emergency or was added in conference and brought back in a way that, under our rules, is not amendable.

So what we are attempting to do with this process, with this concept of separate enrollment, what we are attempting to do is to provide the President with presentations from the legislature which are specified, item by item by item, which the President with his able staff and with the resources at their disposal can easily examine. They can look at these items which do not comport with the thrust of the legislation presented and send them back here for our review and, if we so choose, our overriding that particular veto.

As opposed to the statement that the Senator from West Virginia made about his fight to save the constitutional system, I would argue that line-item veto is a fight to save the constitutional system, it is a fight that honors what the Framers of our Constitution and what our Founding Fathers attempted to achieve: a system of checks and balances. It is difficult for this Senator to believe that the Founding Fathers of this country, the Framers of the Constitution, intended that we would present the Executive with a continuing resolution embodying every penny of spending for this entire Federal Government and place it on the desk of the President at the end of a session—sometimes it is after we have adjourned that it arrives at his desk, although we are still here in pro forma to finalize the formal adjournment—and say, ''Mr. President, take it or leave it. The entire budget of the United States of America sits on your desk in one piece and your choice is to take it all or reject it all.''

I would claim that is an abuse of the spending power, an abuse of the power of the purse, an abuse of the Constitution, an abuse of what the Founding Fathers intended as the way that body should act—act responsibly.

The Senator from West Virginia has said that when all is finally said and done, when we take Public Law 103–316, Making Appropriations for Energy and Water Development for the Fiscal Year Ending September 30, 1995, and for other purposes—that all we send to the President is this nice, neat little several-page piece of legislation. And that is a much neater process than sending to the President the stack of separately enrolled bills. In one sense it is, because it is much easier to read through this small, little booklet than it is to peruse through that stack of bills.

But what we have here and what we present to the President is something that is so general that it is very difficult to itemize out all that it accomplishes. It is a very neat way for Members to say, ''I did not know what was in the final product.''

Under title I of this particular act that I am reading, it appropriates, in

one section here, ''$181,199,000 to remain available until expended, of which funds are provided for the following projects,'' in the amounts specified. And then it lists about 10 projects. But that $181 million actually goes to fund an additional 326 projects. So, when the President looks at this, it is extremely difficult to determine which items are going to receive the specific expenditures and which ones are not. Of course, it is impossible for him to examine the legislation and come to the conclusion that there are portions of this that should not be spent because he is forced to accept the entirety or reject the entirety. He has no power, no authority, granted to him to send back items that he does not deem necessary.

The Senator from West Virginia talked about the process as a cut-and-paste operation, conducted in the wee hours of the night with clerks assigned from perhaps the Government Printing Office helping enroll the separate bills. That is the way it used to be done. That is the way, I would say to the Senator from West Virginia, that enrollment of legislation used to be conducted.

It would be a mechanical problem—not an insurmountable one but a mechanical problem—as we used to do it. But we do not do it that way anymore. Modern computer technology has arrived in the Senate and arrived at the House.

I spent some time with the enrolling clerk asking him how he now goes about this process. He said, ''Well, it is very easy.'' He showed me a computer sitting on his desk about this wide and about that high. He showed me a software package which is called XyWrite, and he said, ''We now do in a matter of minutes what used to take us hours, and we now do in a matter of a few hours what used to take days.'' He said, ''While I have authority to bring over people from the Government Printing Office, I never have to call them anymore because the miracle of modern technology allows us to separately enroll items literally with a push of a few buttons. What used to take dozens if not hundreds of hours now can be done literally in minutes.''

So it is not a mechanical problem. It is something that is easily processed and easily handled by the enrollment clerk. The House clerk has the same technology as the Senate.

The question of do we cede power to the enrolling clerk I do not believe is valid any longer either because, as the enrolling clerk explained to me, he does not have the authority. It is not vested in him to make a determination as to what should be enrolled or what should not be enrolled. It is the purview of the appropriators or those who write the bill to define the items of expenditures in those bills. And the power of the enrolling clerk only goes to enrolling that particular separate item. To the extent that we are sloppy in our efforts, that would raise a question as to what ought to be enrolled. But I am confident that, if we understand that each item in a particular appropriation or a tax bill or other item of legislation is going to be separately enrolled, we will make sure it is separately enumerated in the legislation that we send down to the enrolling clerk. Any ambiguity relative to a question mark on enrollment can easily be resolved by our own efforts.

As Senators know, the expansion of this legislation incorporates targeted tax expenditures. The Senator from West Virginia is absolutely right when he cites that the problem and the dimension of the problem that we face does not fall solely on the shoulders of the appropriations process to the discretionary account. In fact, I believe it is less than 20 percent of the budget. In recognition of that, part of the process in negotiating the amendment that was offered by the majority leader was to expand the scope of the veto power of the President, individual item veto power of the President, to incorporate new spending, new spending in the entitlement functions, targeted tax spending where specific tax—what I call tax pork—is incorporated in tax legislation which goes not to serve a broad interest or a broad classification like charitable deductions, like mortgage interest deductions, items that the Senator from West Virginia mentioned, but go to please or to satisfy a particular narrow interest, an individual interest or a specific interest within a class rather than to the class itself. That is defined in this bill. That will now be brought into this bill.

That is an idea that was brought forward by the distinguished Senator from New Jersey, Senator BRADLEY, who offered that last year on this floor. So we have incorporated that idea. It is a good idea. It immeasurably improves and expands the scope of the line-item veto. And we have added expenditures which would be added under the category of new expenditures to entitlement programs. It does not change the law relative to entitlement programs—as to who is eligible and what benefits they are eligible for. But, if this Congress changes the benefits provided under the entitlement and expands those and that results in increased expenditure, that too would be subject to the President's veto. So we have expanded it far beyond the original provisions of just applying it to the appropriations process.

I would like to conclude by making some points on the constitutional question because that is a valid question and one which I believe Members need to address.

Under article I, section 5, each House of Congress has unilateral authority to make and amend rules governing its procedures. Separate enrollment speaks to the question of what constitutes a bill. It does nothing to erode the prerogatives of the President as that bill is presented. Under the rulemaking clause, our procedures for defining and enrolling a bill is ours to determine alone.

There is precedent provided in House rule 49, the 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 analyzed separate enrollment legislation and indicated the following:

> Evident, 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. In separate enrollment, however, a different tack was chosen. Separate bills drawn out of a single original bill are forwarded to the President. In this fashion, he may pick and choose. Formal provisions of the presentation clause would seem to be observed by this device.

Laurence Tribe, who is a distinguished constitutional professor of law, who is frequently quoted on the Senate floor more often by Democrats than Republicans, but nevertheless is a respected constitutional scholar, has also observed that this measure is constitutional. He recently wrote, and I quote:

> 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 the congressional rules regarding the enrolling and presentment of bills.

He went on to say:

> Courts construing the rules clause of article I, section 5, have interpreted it in expansive terms, and I have little doubt that the sort of individual presentment 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 which he offered. And I quote from Senator BIDEN.

> 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. And 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:
>
> One, this does not change 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 that 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.

That is exactly the process which is presented in Senator DOLE's amendment. We, the Congress, have complete control over the content of the legislation we pass. Thus, the decisions to initiate the process of separate enrollment, or to terminate that process through passage of a subsequent statute, or by a sunset provision, which this DOLE amendment contains, and to establish the sections and paragraphs of the bill, which we have the authority and the power to do, all are fully within our control and discretion.

Quoting again from Senator BIDEN:

A requirement that Congress again pass each separately enrolled item would only be 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 the legislative power. Nor would it serve to shield Congress from the process of separate enrollment, because Congress will retain the discretion to terminate the process.

If we pass the whole, surely we pass the parts. How can we argue that having passed an appropriation bill that covers spending for certain functions of Government—let us say the Commerce Department—it does not incorporate the separate items of spending listed within that bill? To argue otherwise is to say that Congress, in passing the whole, does not pass the separate items. And it seems to me that a more legitimate process—if you are concerned with that question—is to separately enroll the items. Then there is no doubt that we have passed those separate items. So passing the whole incorporates the parts.

Senator BIDEN said:

The second reason why he believes the constitutional concerns are unfounded relates to House rule 49, the statutory limit on public debt.

I will refer to that later.

Rule 49 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 49 states, in part:

The vote by which the conference report and the concurrent resolution on 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 continued to elaborate on that by saying House rule 49 has not been found unconstitutional because of its modification of routine rulemaking procedures. It is transmitted to the Senate for further action and presented to the President for 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.

The American law division has supplied me with a number of cases which further elaborate these points. In United States versus Balan, decided in 1892, the Court articulated the power of the Congress to determine its rules of proceeding. It said:

The Constitution empowers each House to determine its rules of proceedings.

That is the Court speaking.

It may not by its rules ignore the constitutional constraints or violate fundamental rights, and there should be a reasonable relation between the mode or method of proceeding established by the rule and the result which is sought to be attained. But within these limitations, all manners of method are open to the determination of the House, and it is no impeachment of the rule to say that some other way would be better, more accurate, or even more just. It is no objection to the validity of a rule that a different one has been prescribed and enforced for a length of time. The power to make rules is not one which, once exercised, is exhausted. It is a continuous power, always subject to be exercised by the House and within the limitations suggested, absolute and beyond the challenge of any other body or tribunal.

So is that not what we are doing? Are we not exercising that continuous power articulated by the Court to make our rules? Once exercised, that power is not exhausted, as the Court said. It is always subject to be exercised. In this case, the Court was referring to an action by the House. Obviously, it could apply to the Senate equally.

So it is not impeachment of the rule to say that some other way would be better, more accurate, or even more just. Who is to say that this method is not more accurate? I believe it is more accurate. It is certainly more accurate than the 10- or 12-page bill presented to the President for his signature, which does not begin to enumerate the actions of this body. You can pore through this and not begin to understand how the taxpayer' dollars are going to be spent. But if we separately enroll, every Member of this Congress will have at his or her disposal, immediately, exactly how dollars are spent, exactly how projects are funded and which projects they are. They will be able to pull pieces of paper out and say, ''I do not think this is the way we ought to deal with the taxpayer's expenditures.'' And the light of day will be shed on our actions. I think that is a more accurate and a more just way of being held accountable to the very people that send us here to deal with the allocation of their hard-earned dollars.

Killian asks:

Within this capacious concept, what provision of the Constitution would the ''deeming'' provision violate? We certainly cannot point to any fundamental right that is abridged. The constitutional constraint that is applicable is the first section of article I, which sets a bicameral requirement for the exercise of lawmaking. But Congress in the proposal does not disregard the bicameralism mandate. A bill in identical form has passed both Houses. Then, a functionary, the enrolling clerk, follows instructions embodied in the rules and separates out of this bill a series of sections identical to the sections contained in the larger bill and enrolls these sections into separate bills; these bills are signed by the Speaker of the House and the President of the Senate, and these bills are then presented to the President for his signatures or his vetoes.

One can readily see that the question is much more narrow than the mere issue whether Congress can pass a law that has not cleared both Houses in an identical version. The separately enrolled bills, taken together, are identical to that initial bill. If Congress should conclude that this two-step process comports with the constitutional requirement of bicameral passage of a legislative measure, in what way has a constitutional restraint been breached?

The issue of validity could also be influenced in determination by two other factors. That is, first, Congress is not seeking to aggrandize itself or to infringe on the powers of another branch . . . second . . . it must be observed that these rules are entirely an internal matter, subject to alteration by simple resolution at any time in either House. There is no irrevocable conveying away.

2. There is some question about whether the judiciary will review this case at all. There is some precedent to indicate that the judiciary may construe separate enrollment as a political question unsuited for judicial review.

Marshall Field v. *Clark* (143 US 649 (1892):

The signing by the Speaker of the House of Representatives and by the President of the Senate, in open session, of an enrolled bill, is an official attestation by the two House of such bill as one that has passed Congress. It is a declaration by the two Houses, through their presiding officers, to be President, that a bill, thus attested, has received, in due form, the sanction of the legislative branch of the Government, and that it is delivered to him in obedience to the constitutional requirement that all bills which pass Congress shall be presented to him. And when a bill, thus attested, receives his approval, and is deposited in the public archives, its authentication as a bill that has passed Congress should be deemed complete and unimpeachable. . . . The respect due to coequal and independent departments requires the judicial department to act upon that assurance, and to accept, as having passed Congress, all bills authenticated in the manner stated leaving the courts to determine, when the question properly arises, whether the act, so authenticated, is in conformity with the Constitution.

Judith Best, a distinguished political scientist summed up these arguments well. She said:

Under article I, section 5, Congress possesses the power to define a bill. Congress certainly believes that it possesses this power since it and it alone has been doing so since the first bill was presented to the first President in the first Congress. . . . The definition of a bill is a political question and not justiciable. ''Prominent on the surface of any case held to involve a political question is found a textually demonstrable constitutional commitment of the issue to a coordinate political department. (*Baker* v. *Carr*, 369 US 186 (1962)) A ''textually demonstrable constitutional commitment'' of the issue to

the legislature is found in Each House determine the Rules of its Proceedings. If Congress may define as a bill a package of distinct programs and unrelated items, it can define distinct programs and unrelated items to be separate bills. Either Congress has the right to define a bill or it does not. Either this proposal is constitutional or the recent practice of Congress in forming omnibus bills containing unrelated programs and ungermane items is constitutionally challengeable.

Mr. President, despite the best efforts of those who oppose line-item veto in any form to characterize this bill as unconstitutional, I am confident that separate enrollment clearly passes the constitutional hurdle. Both conservative and liberal constitutional scholars agree; the American Law Division of CRS and the former chairman of the Senate Judiciary Committee have spoken clearly to its constitutionality.

If I thought that we would win the votes of those who are committed to kill the statutory line-item veto by passing a constitutional amendment, I would offer that amendment. However, I strongly suspect that the very same Senators who are raising constitutional concerns would fight just as hard against granting the President line-item veto authority through a constitutional amendment. The real issue at hand is not constitutionality, but Congress' willingness to change.

Mr. President, let me state that the real reason we are here is that this body, this Congress, this legislature, has been unable to responsibly exercise the authority and power given to them on behalf of the people of the United States, or a reasonable exercise of expending the money, which we require them to send to the Federal Government.

In 1994 we spent an average of $811.7 million a day on interest payments. That is $33.8 million an hour, $564,000 a minute. Those interest payments are due because this Congress did not have the courage or the will to go before the taxpayer and demand payment up front at the time of expenditure for items which it passed. And we have, over the past 20 years, and I point the finger of blame at every Member of this body, including myself—we have seen the national debt increase in the last 15 years from under a trillion dollars to nearly $5 trillion, a more than 500 percent increase.

Because we have not had the courage to go to the public and say, ''If we are going to pass this program, which is pleasing to many, we are going to have to ask you to pay for it as the money is expended.'' And we have, in the process, passed on to future generations a staggering debt burden which, as the Congressional Budget Office has enumerated, adds a crushing debt load which will provide a stagnant standard of living for future generations, which will place a burden on them that we have not had placed on our own shoulders.

I believe what we have done borders on or, if not, is outright immoral. I am not the first person to say that. Distinguished Americans have said that. They have warned about that, and now they have observed us doing it. It is grossly unfair for us to enjoy the fruits and the blessings of this country without having to pay for them. A lesson that each of us tries to teach our children has been ignored by this Congress, and that is that debt will ultimately crush you. It will ultimately destroy your hopes and your dreams.

Those items that we have deemed part of the American dream, at least that are part of the vision and dreams for most of us—owning our own home in which to raise our family, having the wherewithal to educate our children, providing for their needs, their necessities, whether it be transportation, clothing or food—those dreams and visions are going be infinitely harder for future generations because we have failed to act responsibly, because we have failed to honestly face the taxpayer and honestly exercise the responsibilities they have given to us, because we have had a very convenient excuse, and that is we can postpone the day of reckoning, we can postpone the day of payment to a future Congress, to a future generation.

To those who say that all we need do is stiffen our backbones and exercise will, I say it has not been done. It has not been done in 55 out of the last 63 years and for 25 straight years it has not been done. For one reason or another, there is always an excuse to postpone it, usually past the next election. It is a natural human tendency which we all fall prey to and that is a tendency to avoid a very fundamental, basic principle of not having more than you can afford, of being able to pay for it up front. But because the Federal Government is allowed to float debt, because the Federal Government, unlike other institutions, has a convenient out, we are able to tell our constituents that they can have it all now and somebody else will pay for it later. That is why we are here.

Now, in my opinion, we failed to enact the structural reform necessary to change the way we behave, and that was the balanced budget amendment. I regret that that failed by one vote. The line-item veto is another structural reform that changes the way we behave. It is almost as if we are trying to save ourselves from ourselves.

That is why I felt the balanced budget amendment was necessary because, despite all the promises—and I have been here through the budget deals and through the tax deals and through the promises—that we are going to get it right the next time, despite all that, we fail. We fail because it is so much easier to say yes than it is to say no, because of that natural human tendency of wanting to go home and say yes to the group that will vote in the subsequent November election on whether or not they want us to stay here, who will be pleased if we say yes and will be very unhappy if we say no.

And so that natural human tendency overcomes all of our best intentions. And each year, then, we fail to step up to the responsibilities of making the hard choices. Oh, we make some hard choices, but they are just trimming at the margins.

So I have believed for a long time that the only way we are going to accomplish what all of us, I believe, deep down in our hearts know we need to accomplish is to put in place structural changes which will either force us to accomplish that or make it much more difficult to continue past practices.

The balanced budget amendment would have forced us to accomplish that. We would have had to put our left hand on the Bible and our right hand in the air and each time swear to uphold that Constitution. And that Constitution would have required us to balance the budget. It would have liberated us. It would have liberated us from the pressures of constituencies, from special interests, from lobby groups. We could have looked them in the eye and said, ''Yes, that is a worthy idea, but you are going to have to sell it to the taxpayer, because I am constitutionally bound to not spend more than we take in. You are either going to have to suggest a reduction in an offsetting program or you are going to have to suggest a tax increase that will pay for it. But, by the end of the session, we have to balance the books.''

What a liberation that would be. We ought to self-liberate. That is what I hope we will do now that we have not passed the balanced budget amendment.

I hope we will realize and understand the gravity of the impact of this debt. As Thomas Jefferson said:

> The question whether one generation has the right to bind another by the deficit it imposes is a question of such consequence as to place it among the fundamental principles of government. We should consider ourselves unauthorized to saddle posterity with our debts, and morally bound to pay them ourselves.

I hope that we will take that to heart and that we will summon the will to accomplish that end.

The line-item veto is a pale shadow in comparison to the balanced budget, but it is the only other game in town—the only other game in town other than what we have been doing for 25 straight years, and that is running deficits; despite our promises, despite our rhetoric, despite our best intentions, the only other game in town that changes the way in which this body operates, that provides a check on the way we do things, a balance on the way we do things that makes it more difficult for us to continue this practice of saddling future posterity and generations with unnecessary debt as a result of spending that goes to the narrow interests rather than national interests.

And so what is before us now is the second attempt in a month or so to fundamentally change the way we do business.

Some will argue for the status quo, saying that we are constitutionally bound. I do not accept that argument. Neither do other respected constitutional experts.

Some will say that we are tradition bound. What a tradition. Who can defend the tradition of a $5 trillion debt? Who can possibly defend the way that we have done business when faced with such staggering debt?

So the line-item veto, as I said, is just a shadow of what might have been accomplished under a balanced budget amendment, but, nevertheless, an important tool, an important tool to end the practice or at least to make the practice substantially more difficult than the practice that has been the traditional course of action here for perhaps the history of this body, but certainly since 1974 when we took away the President's right of impoundment.

It is a tool we need. It is a tool we need because it forces us to be honest legislators, to own up to the individual item that somebody has proposed and to defend it. And if it is defensible, if it is meritorious, then it will pass. It will gain the votes and the support of the Members of this body.

If it is not, it will fail. My guess is that many will not see the light of day because those items are items that we know cannot generate a majority of support, otherwise they would be brought as individual items to this floor.

We will never know the full impact of line-item veto because most of the items that would have been vetoed will never be put on the bills in the first place. We will not risk the embarrassment of the appropriation or the special tax break that will be labeled ''spending pork'' or ''tax pork.'' Most will not risk that embarrassment of having the President call out that separate bill and stamp ''veto'' on it and send it back here and bring it up for debate and for a vote. We know in our hearts it would never achieve a majority, let alone a two-thirds vote.

So line-item veto will not be measured in the amount of money that it saves in the future. Only we know in our hearts and in our minds what items we might have attached if we had not had line-item veto. Those are the broader reasons, Mr. President. We can argue the technicalities. We can argue as we always do that, yes, I support the concept but not this bill, not this definition.

Well, we have been going through and saying this now for more than a decade. I do not know what perfect piece of legislation lies out there. All I know is it is not offered. We have wrestled and wrestled with this. We want something that is real, something that has teeth, something that makes it harder for Congress to spend. Not 51 votes. We want two-thirds, something that allows the President to know exactly what it is we have done.

We do not want a 14-page bill sent to him that incorporates in its first paragraph, 326 separate items. We would like those items defined, in detail. A little extra work, yes. But we are not quill and pen any more. We are computerized. We have the technology to do this, to do this easily, to do this accurately, to do this fairly, to do this justly.

Mr. President, I would hope our colleagues would conclude that the time is now, the time to make a structural change, to make a difference, is now. If we postpone this, if we continue to postpone it, we simply will have a much more difficult task in the future.

So, let Members at least, having failed a balanced budget amendment, let Members at least pass line-item veto so that we can say, ''We did something different. We made some change in the way we do business.'' So that we do not have to go home and say ''Despite the mandate of them, despite the burden of the debt, despite the speeches that each Member has given about the insidiousness of the debt and uncontrollability of this debt we did nothing structurally different. We did nothing to change the way we did business.''

Does any Member want to go home and say that? This is our chance. This is our time. I urge support for the amendment by the Senator from Kansas, the majority leader, Senator DOLE.

I yield the floor.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER (Mr. BROWN). The Senator from West Virginia is recognized.

Mr. BYRD. Mr. President, I asked the Senator from Indiana to yield. He did not wish to yield.

He had two opportunities to vote for deficit reduction packages—and I will be very brief—in 1990 and again in 1993.

Did he vote for either of those deficit reduction packages? The opportunity was there to cut the deficits by a total of around $900 billion in both bills, 1990 and 1993. Did the Senator vote for either of them?

Mr. COATS. Mr. President, if the Senator from West Virginia will yield, first of all I apologize to the Senator for not yielding. I guess I got carried away with my own rhetoric and conclusion. I forget I promised the Senator from West Virginia that I would yield for a question. I trust he will accept my apology for that.

The question the Senator from West Virginia has propounded to me is: Did I vote for the 1990 or the 1993 budget resolution? The answer to that is no.

I would like to explain why I did not. Because this Senator believes that my constituents from Indiana have been taxed enough. And both of those resolutions contained substantial increases in taxes, as well as spending cuts. It was the philosophy of some who offered those resolutions that our deficit ought to be attacked by a combination of tax increases and spending cuts.

It is this Senator's opinion that we have taxed the taxpayers enough, and that we ought to attack the deficit on the basis of spending cuts—this Government has grown too large—and that our first priority ought to be to reduce the scope and size of Government and to reduce expenditures. Only then consider the possibility of an increase, if it is needed, to address the balanced budget amendment.

So, if the vote was on a measure as we have had a number of votes, to just reduce spending, this Senator is more than happy to vote for it. But not if it includes raising taxes.

Mr. BYRD. Mr. President, the Senator has answered my question. The answer is, he did not vote for either of those packages, which together saved upward of $900 billion, would reduce the deficits by almost $1 trillion over 5-year periods. He did not choose to vote for either of them and he says, ''Because they contained tax increases.''

Well, tax increases are one of the tools that has to be on the table, in my judgment, if we are going to consider reducing the deficits. Nobody likes to vote for tax increases. I do not like to. I have voted for tax increases, I have voted for tax cuts. I would much rather vote for tax cuts.

But tax increases is one of the options that we may have to use if we relieve the burden of debt that is going to be placed upon our children and grandchildren by virtue of our using the national credit card for the last dozen to 15 years. We may have to use that option to increase taxes.

Now, the distinguished Senator refers to the Gephardt rule. The Gephardt rule has never been adjudicated by the courts. We do not know how the courts would hold on the Gephardt rule.

Furthermore, I might suggest that if we can deem, in the words of the amendment that has been offered by Mr. DOLE, if we can deem, and I read the language therefrom, ''a measure enrolled pursuant to paragraph one of subsection (A) with respect to an item shall be deemed to be a bill under clauses 2 and 3 of section 7 of article I.''

Mr. President, the distinguished Senator from Indiana says that we ''may deem'' such measure to be a bill under clause 2 and 3, and he says that we may do that based on article I, section 5, which leaves to the two Houses the judgment of determining their own rules, but I would hope that the Senator would not argue that the Senate or the House under the cloak of article V, the determining of the rules that the House and Senate could supervene a clear clause in the Constitution of the United States.

Neither House can create a rule that would in itself, violate the Constitution of the United States, or supervene it, or take precedence over it. All rules of the House and Senate—even though the House and Senate are given the power and authority under article I,

section 5, to determine the rules of—all Senate and House rules must fall if inconsistent with the Constitution of the United States.

Now, if a bill enrolled pursuant to paragraph 1 of subsection (A) with respect to this item shall be deemed to be a bill, if one of these little ''billettes'' may be deemed to be a bill, if the Constitution said ''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 we can deem that and thereby avoid the requirements of the Constitution, I wonder if we might not just deem an appropriation bill that passes the House of Representatives, just deem that it has passed the Senate?

Any appropriation bill that passes the House, why not just deem it to have passed the Senate and go home? It would seem to me to be just as appropriate to deem an appropriations bill that has passed the House, deem it as having passed the Senate, as to deem the section or a paragraph or an item in the appropriations bill, deem that to be a bill.

There is one final suggestion I have. The distinguished Senator spoke of the qualified negative which the constitutional Framers gave to the President, and they did reject the idea of giving the President an absolute negative, an absolute veto. They gave him a qualified veto. But in practice, it would seem to me that if the pending amendment becomes law, it could, in effect, be the same as giving the President an absolute veto for this reason:

Let us say that the several States in the Northeast—Maine, New Hampshire, Vermont, Rhode Island, Connecticut, and so on—let us say that those States were able to get something into an appropriations bill that was very vital to the Northeast region. Suppose the President vetoed that item or those items from the bill and sent those bills back to the House of Representatives where they originated. Well, obviously, the votes of all the States in the Northeast, when added together, in the House of Representatives would fall far short of being sufficient to override a Presidential veto. The small States would be hard put to corral the votes necessary to override a Presidential veto of items that affected the small States.

West Virginia has three votes in the House and, in effect, then, it would seem to me that the President, in exercising his veto under the amendment that has been offered by Mr. DOLE, would, in practice, as far as practicality is concerned, be exercising an absolute veto. Small States should look at this amendment with great concern. Perhaps the States of California, Texas, Florida, Michigan, New York, Indiana, and Illinois could come together and marshal enough votes among themselves to at least uphold a Presidential veto, sustain it.

But the President could take that bill and knock out items that were of importance to the smaller States, and it would be very, very difficult, if not impossible, for the small States to garner the support in the House of Representatives to override that veto. They would not be able to produce the two-thirds vote. So, in essence, it gives to the President an absolute veto, which the Framers discussed but rejected.

Mr. President, I have had more than my share of time here this afternoon. I apologize to those other Senators who have been waiting. I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. I believe the next Senator is the Senator from California. The Senator from California is recognized.

Mrs. FEINSTEIN. Mr. President, this is a very short statement. I do appreciate the opportunity to make it. I rise today in support of the substitute amendment to S. 4.

For more than 100 years now, arguments both pro and con have been made revolving around whether a President should or should not have a line-item veto. As a matter of fact, since 1876, more than 200 resolutions have been introduced on this subject. Presidents, Democratic and Republican, have asked for this special blue pencil. This President has asked for the strongest possible bill, and I believe that there are several Democratic Senators prepared to vote for this legislation.

Basically, the arguments on a line-item veto are either philosophical or constitutional. But regardless, the trend on many levels has clearly been toward a stronger chief executive in both State and local jurisdictions.

Today, 43 States have a line-item veto, and mayors of cities, big and small, as well as county executives, are being granted this authority.

In California, the latest city to grant a line-item veto to a newly strengthened mayor is Fresno, a major city with a population of 667,000 people in California's Central Valley breadbasket. The Fresno mayor will have this authority beginning in 1997.

In Maryland, the State legislature is this year considering granting this authority to the county executive.

In California, the line-item veto has been used 254 times in the last 4 years. The Governor has had this authority since 1908, and a recent survey found that 92 percent of all current and former State Governors believe that the line-item veto would help curb spending.

Before New Jersey Gov. Christine Todd Whitman signed a $15 billion supplemental budget into law this past year, she used the blue pencil to cut $3.17 million from the bill.

The most powerful line-item veto is probably that provided in Wisconsin, where the Governor cannot only veto lines but also individual words. Governor Thompson has used it over 1,500 times since 1987, sometimes to change actual policy. It is my understanding that this is not the case in the legislation being considered today.

Virtually all businesses' and corporations' CEO's or CFO's have this authority. But the President of the United States, who runs the largest combination of major governmental enterprises in the world, does not have this authority.

Today, the President has little recourse to fine tune a budget passed by the Congress, except to shut down entire segments of the Government by vetoing an entire appropriations bill.

In 1992, the General Accounting Office estimated that a line-item veto could have pared $70.7 billion in pork-barrel spending between 1984 and 1989. That is just 5 years. If in the next 5 years a similar amount could be cut, then the line-item veto will have done its job.

Enacting a line-item veto will, of course, give the Executive more authority, and I recognize that that is a problem for some. And even though a President may not use that power frequently, the threat of such action may be the impetus needed to force Congress to be more responsible in the formulation of the budget.

I believe the line-item veto will increase positive relations between the executive and legislative branches because Members will no longer have the ability to insert special projects that have little overall merit in appropriation bills without the concurrence of the Chief Executive. The line-item veto can force executive-legislative cooperation and agreement before the bill reaches the White House for signature or veto.

It also encourages caution on the part of the Chief Executive who would use it sparingly in order to prevent his veto from being overridden. Really, what a line-item veto is all about is deterrence, and that deterrence is aimed at the pork barrel. I sincerely believe that a line-item veto will work.

In our caucus today, some papers were passed around which showed a paragraph from a bill involving the Patent and Trademark Office, and there were several subsets attached—items which were certainly not reflected in the paragraph of the bill. One of these stated:

> * * * of which not to exceed $11 million shall remain available until expended for furniture and furnishings related to new space alteration and construction projects.

Now, if I were President, I would say to my staff—take a look at this. Does the Patent and Copyright Office really need $11 million in furnishings? I think it is worth a look.

Mr. LEVIN. Will the Senator yield on that?

Mrs. FEINSTEIN. I certainly will.

Mr. LEVIN. I was the one who circulated this paper. This has nothing to do with the Patent Office. This had to do with the Federal courts, which

shows the problem with the pending substitute before us, which is there is no way of telling from the bill that will be submitted to the President what it relates to. It is just language pulled out of bills and you do not even know what it relates to. The Senator is saying that this was from the Patent Office.

Mrs. FEINSTEIN. Let me respond to that. The fact is, I do not care what department it is; any $11 million item for furniture should certainly be looked at a second time, whether it is courts or agricultural offices or Interior or anything else.

Mr. LEVIN. If the Senator from California will yield further, this language was language which the computer produced, and the Senator from Indiana handed the computer to State, Commerce and Justice appropriations. And the Senator from Indiana said, gee, that computer does it simply, fairly, accurately, and the Senator from California said that this related to the Patent Office. And in fact it has nothing to do with the Patent Office.

Mrs. FEINSTEIN. Let me apologize. The papers were passed out together at our caucus, and I made perhaps the mistaken and inadvertent, but not surprising, conclusion that since they were passed out together they related to one another.

Now, if I might finish my statement——

The PRESIDING OFFICER. The Senator from California has the floor.

Mrs. FEINSTEIN. I believe that what a line-item veto essentially does is encourage caution on the part of both the Chief Executive and the legislative body. I think the time has come for fiscal discipline. As I said, I sincerely believe the line-item veto can help us achieve that goal.

Let me give an example. When I was mayor of San Francisco, the budget did not correspond with the size of the Federal budget, but there were 52 departments, and the budget was over $1 billion. Yet, it was very difficult to get down to the actual line items. There was one line for salaries. As a chief executive, I really had no opportunity to go through every salary to make judgments about how many people should be continued and how many people should not.

A line-item veto gives the chief executive this opportunity, and I think the blue pencil is a necessary tool of government for a Chief Executive in a modern day.

I also believe that tax breaks and appropriations should be treated similarly. They may be two different items, but the results are very much the same: they benefit a small segment of the population at the expense of the greater good of all the people. Regardless of the item, they both reduce the amount of money in the U.S. Treasury.

Currently, debates are raging at every level of government about the institution of a line-item veto. Maryland, as I said, is now debating it. Fresno, CA, has just granted it. I believe that the people of this country understand the benefits of a line-item veto and are expanding the use of it. I believe we ought to give this power to our President.

So I am very pleased to be able to support the legislation before this body.

I thank the Presiding Officer, and I yield the floor.

The PRESIDING OFFICER. The Senator from Kansas is recognized.

Mr. DOLE. Mr. President, I just want to make an announcement to my colleagues on both sides to know what the program is for the remainder of the evening.

The distinguished Democratic leader has given me a list of potential amendments which numbers 33 on that side, 4 on this side, for a total of 37, and I am not in a position to say that is an agreement that we would want to agree to. So I would just suggest tonight, if somebody wants to debate the bill, it is all right to have the debate, but we are not going to take up any amendments tonight. And then I will meet with our leadership tomorrow morning on this proposal.

I do not see how we are going to complete 37 amendments between now and Friday morning. Many will probably be the same amendment we have had time after time after time in an effort to delay and delay and delay action on a bill that ought to be passed around here in 2 or 3 days. It is something we debated 7 times in the past 8 years. But I know Members have a right in the Senate to offer all the amendments they want. And if we cannot get cloture, why, I assume they can offer all the amendments they want. But I do not think it would be in the interest of anybody to start off and suggest we are going to finish by Friday when we have 37 amendments with no time agreement on a single amendment. It is the same thing we have done all year long—throw in all the amendments you can think of, clean out the garbage can, whatever, and then put them on a list and say take it or leave it. My view at this time is to leave it. If anybody wants to make speeches on the bill or on any amendment tonight, there will be no disposition of any amendment tonight.

The PRESIDING OFFICER. The Senator from Nebraska is recognized.

Mr. EXON. Mr. President, I am sorry to hear what the leader has just said. We were prepared to offer an amendment. There have been those of us in the Chamber today who have not had a chance to talk. Some people do not follow the usual order around here, but I was prepared to yield to my colleague from Illinois for the purpose of offering an amendment.

Do I understand that the leader is saying he does not want any amendments offered as of now?

Mr. DOLE. I do not object to an amendment being offered; there just will not be any vote tonight if the Senator from Illinois would like to offer an amendment, if somebody else would like to offer another amendment.

Mr. EXON. I have listened to the statement made by the leader, and I would simply say that we are prepared to move ahead on these things as quickly as possible. This is a very important piece of legislation, and I have listened to a lot of talk today that some people misconstrue what most of us on this side want to do, and that is pass some acceptable version of the line-item veto or enhanced rescission proposal.

So we are not being dilatory. I do not think anybody is filibustering. There has been no threat of a filibuster. I hope, for the purpose of moving ahead now, to show we want to get things done—as soon as the Chair thinks it appropriate, I would appreciate him recognizing the Senator from Illinois for the purpose of offering an amendment to get on with what we think the request of the majority leader is. Let us get going on offering the amendments.

Mr. DOLE. I will just take 1 additional minute. Again, everybody has the right to offer amendments. We certainly learned that this year. We have voted on the same amendments time after time after time. I bet half of them are right on here again. Everybody out trying to make points: Social Security, children, or somebody else—offering these amendments.

That is a right we have on both sides of the aisle, but we do not have to take a week just because Friday is coming. We do not have to say we cannot finish this bill before Friday. We have a lot of work to do if we are going to have any Easter recess around here.

We have a list of ''must do'' legislation. There comes a point when you must get it done. I think if we can finish this bill on Thursday, start on either the supplemental appropriation, the second supplemental or the modified bipartisan measure on regulatory reform—not the moratorium but the 45-day review period, which I think Senator REID and Senator NICKLES are working on—then after that, we have the self-employed tax deduction, which is going to be very important to our constituents. Tax time is coming. We need to pass that early next week. Then we have the second supplemental with billions of dollars in there for FEMA, among other things. Then we have a couple of conference reports on the first supplemental; and then on paper simplification.

My view is, if we do not push on this one we are—and if we do a couple of amendments tonight, that would only leave 35.

My view is, certainly if the Senator from Illinois wants to offer an amendment, he can do that tonight. But I suggest we then have the vote on that amendment tomorrow, and we will just start and see how far we can go until we have a cloture vote tomorrow sometime.

Mr. SIMON. Will the majority leader yield?

Mr. DOLE. I will be happy to yield.

Mr. SIMON. Let me just explain, the amendment I hope to offer simply calls for expedited judicial review. It is identical to an amendment that was accepted on the House side.

I think, whether you are for or against this bill, it makes sense. I believe it would be acceptable to both sides but I at least want to lay it down tonight and then, if there is not agreement tonight, then we can agree on it tomorrow.

Mr. DOLE. Is the Senator going to send the amendment to the desk?

Mr. DASCHLE. If the Senator will yield?

Mr. SIMON. If the Senator will yield for that purpose.

The PRESIDING OFFICER. Does the Senator from Kansas yield?

Mr. DOLE. I yield the floor.

Several Senators addressed the Chair.

Mr. DASCHLE. Mr. President, I did not hear all the words of the distinguished majority leader, but I did hear the end of his comments.

Let me say again, as I have said to him personally: it is not our desire to hold up this piece of legislation. Our desire all along has been to work in good faith with the Republican majority. We have consulted with a number of our colleagues, all of whom have indicated their amendments are relevant.

I am somewhat surprised myself, frankly, with the list of amendment. I had indicated publicly I did not think the list was going to be as long as the list is. But I have given the assurance to the majority leader that we desire to finish this bill this week. We have also indicated that our message to all Members would be that they would have to offer their amendments prior to 10 o'clock on Thursday. That is an excellent guarantee.

We have also indicated that the amendments that we intend to offer would be relevant. These have not necessarily been offered in the past, and I hope we could find some way to accommodate all Senators here. If we have to go to a cloture vote, we will go to a cloture vote. But the issue, if we go to a cloture vote, will be whether we, as a minority, have the opportunity to be heard on a very important issue, and to offer all relevant amendments.

We only received this amendment yesterday evening. It is a substitute that was laid down yesterday. We have not been given an opportunity today to even offer an amendment. There will be no votes on amendments tonight.

So I hope that everyone shows some accommodation, and some willingness to cooperate. We are doing our best. We may be able to get that list down even some more. But I hope we can continue to work in good faith. And let me emphasize to the majority leader and to others, I think if we do work in good faith, we can accommodate all Senators in a responsible way.

But to lay down this substitute, then to file cloture, then to tell us that we cannot even offer amendments—most of which or all of which should be relevant—in my view is just unacceptable. I hope in the end we can deal with this in a reasonable way. I am sure that we can.

With that, I yield the floor.

The PRESIDING OFFICER. The Republican leader.

Mr. DOLE. Mr. President, we may have an opportunity overnight to go back and shorten the list some. I cannot believe there are 37—34 amendments on that side of the aisle. First there were 40; then they reduced it to 34. I cannot believe all those amendments. I think there may be some legitimate amendments. There are probably a half dozen, but I do not think there are 34.

Maybe we can come back and take another look. We now have three amendments or four amendments on this side of the aisle. The important thing is, it is not just this legislation. We took 4 or 5 weeks on the balanced budget amendment. We listened to—everybody got to offer their Social Security amendment on the other side. They tried to make that the issue. Many people who voted for the balanced budget amendment last year, the identical measure, stood right here and voted no this year. There were a couple of minor changes.

We do not want to go through that process again. You are either for or you are against a line-item veto, and we ought to find out. Those who are for it on both sides—not everybody is for it on this side. But those who are for it on both sides, I think, would want us to move ahead and get on to the next piece of legislation if, in fact, we are going to have a recess, which would come when, if it happens? April 7.

But there are some things we need to do. I understand today there is some treaty the administration wants us to do that may take some time.

So we are trying to accommodate the administration. In fact, the line-item veto is something the President says he is for. He said today at the White House they did not mind these separate enrollments. They have a lot of pens at the White House. They make good souvenirs. If there are a lot of enrollments, they could have a lot of signing ceremonies. That is what, in effect, Mr. McCurry said, the President's press spokesman, I think, on that line-item veto.

So we would be happy to work with the leader overnight. But I say to the Senator from Illinois, if he wants to offer the amendment, he certainly has every right. If somebody else wants to offer an amendment, Senator MCCAIN said he would stay here until 8, 9, 10 o'clock, so we could stack some of those votes if they are not subject to second-degree amendments and have those votes tomorrow morning.

We do not want to keep anybody from offering amendments. I just do not want to try to do this this evening.

The PRESIDING OFFICER. The minority leader.

Mr. DASCHLE. Mr. President, let me emphasize to Senators on our side of the aisle that I hope we could offer some amendments tonight. Now, I understand the majority leader to say if we have the ability to vote on them, let us do that. Let us move ahead.

But there are really two issues here. The first issue is whether or not the Democratic minority will have the right to offer amendments to be heard on any one of a number of bills that may come before us. I do not think the Republicans in the past have been any more willing to accept the majority laying down a bill, cutting off debate, and not allowing amendments, especially those that may be germane or relevant, from being considered and debated upon and ultimately voted on.

That is not how we should do business here. What I thought we did was to try to work out arrangements whereby both the majority and the minority would have the opportunity to offer amendments in a reasonable way, and to have votes on those amendments and ultimately work through the legislative process. If we are precluded from doing that, then in my view we have no choice but to vote against cloture and to drag this process out as long as we must. Nobody wants to do that. But I think I can say for many members of the Democratic caucus that we will do that if that is our only recourse.

Second, let me just say this is not just a question of a line-item veto. Obviously, there are legitimate differences of opinion with regard to what is the most appropriate form of a line-item veto. There are differences on both sides of the aisle. Our hope is that we can work through those differences and come up with a meaningful piece of legislation that will enjoy broad bipartisan support. But whether we have broad bipartisan support depends upon whether or not there is bipartisan cooperation. It is not just a vote on a line-item veto. It is a vote on various concepts involving line-item veto or line-item rescission and I am fairly optimistic that ultimately as we work through these amendments, and as we work through the course of the week, that we can come to some ultimate closure on this issue in a way that would allow everyone here to feel good about our progress.

So I hope cooler heads can prevail, and that we can truly accomplish all that both the majority leader and I and others have expressed a desire to do this week.

Mr. MCCAIN. Will the Democratic leader yield? I would like to say that the distinguished Democratic leader that I am prepared to stay here. We are prepared to consider amendments. I hope all of our colleagues on both sides of the aisle understand that.

It is my understanding that the majority leader would like to stack those votes tomorrow, which I hope is acceptable to the Democratic leader. I hope we can move forward, and hopefully by tomorrow perhaps we can find, as we usually do, that some of those amendments that are on that list are not necessary so we can achieve the goal that both of us seek.

I fully understand and appreciate the desire and commitment of the distinguished Democratic leader to protect his and the rights on that side of the aisle.

Mr. DASCHLE. Mr. President, I will not belabor this point. Let me state one last reminder to my colleagues. If we have an agreement, that agreement will entail, at least as it stands now, an understanding that all Senators would have to file their amendments no later than Thursday morning. That leaves tonight and tomorrow and Thursday morning up to a time certain to offer amendments. So if Senators are serious about offering these amendments, I hope they will come to the floor tonight as late as it takes. This is an opportunity to present your amendments. Come to the floor tomorrow. But take advantage of what I think is an effort on both sides of the aisle to accommodate Senators with serious suggestions and proposals as to how to improve this piece of legislation. If we do that, I am sure the distinguished Senator from Arizona is correct. We can reach some agreement tomorrow as to how to dispose of this bill in a way that will accommodate all Senators.

I yield the floor.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, I want to briefly thank the distinguished Democratic leader for his patience. I want to thank the Senator from California for a very important statement, and frankly one that I think has gotten a lot of very important messages associated with it. I appreciate her support of the line-item veto. I appreciate also the patience of the Senator from Michigan and the Senator from Illinois.

I yield the floor.

Mr. SIMON addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. SIMON. I assure my colleagues I will just take a few minutes.

AMENDMENT NO. 393

(Purpose: To provide for expedited judicial review)

Mr. SIMON. Mr. President, I send an amendment to the desk in behalf of myself and Senator LEVIN, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Illinois [Mr. SIMON], for himself and Mr. LEVIN, proposes an amendment numbered 293.

Mr. SIMON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

At the appropriate place in the pending amendment, insert the following:

SEC. . JUDICIAL REVIEW.

(a) EXPEDITED REVIEW.—

(1) Any Member of Congress may bring an action, in the United States District Court for the District of Columbia, for declaratory judgment and injunctive relief on the ground that any provision of this Act violates the Constitution.

(2) A copy of any complaint in an action brought under paragraph (1) shall be promptly delivered to the Secretary of the Senate and the Clerk of the House of Representatives, and each House of Congress shall have the right to intervene in such action.

(3) Any action brought under paragraph (1) shall be heard and determined by a three-judge court in accordance with section 2284 of title 28, United States Code.

Nothing in this section or in any other law shall infringe upon the right of the House of Representatives or the Senate to intervene in an action brought under paragraph (1) without the necessity of adopting a resolution to authorize such intervention.

(b) APPEAL TO SUPREME COURT.—

Notwithstanding any other provisions of law, any order of the United States District Court for the District of Columbia which is issued pursuant to an action brought under paragraph (1) of subsection (a) shall be reviewable by appeal directly to the Supreme Court of the United States. Any such appeal shall be taken by a notice of appeal filed within 10 days after such order is entered; and the jurisdictional statement shall be filed within 30 days after such order is entered. No stay of an order issued pursuant to an action brought under paragraph (1) of subsection (a) shall be issued by a single Justice of the Supreme Court.

(c) EXPEDITED CONSIDERATION.—

It shall be the duty of the District Court for the District of Columbia and the Supreme Court of the United States to advance on the docket and to expedite to the greatest possible extent the disposition of any matter brought under subsection (a).

Mr. SIMON. Mr. President, I believe this is an amendment that will be acceptable to both sides. But my colleagues will have overnight to look at it and make a determination. It is identical to the language that is in the House. It says that any Member of Congress may bring the question of constitutionality before the Federal court, and a panel of three judges will make a determination of its constitutionality and then it can be appealed directly to the U.S. Supreme Court.

What we do not want is to live in limbo. We have people like John Killian of CRS and Prof. Larry Tribe of Harvard who believe it is constitutional. You have others like Louis Fisher of CRS and Walter Dellinger, who believe it is not constitutional. I do not know who is right. The courts have to make that determination. But we ought to know as quickly as possible whether it is constitutional. My sense is it will pass, and it is clearly going to be signed by the President. Let us find out whether it meets constitutional test.

That is what we are asking. And that very simply is what the amendment does.

I thank the President. I thank my colleagues for yielding, and particularly Senator LEVIN who was here on the floor before I was.

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. Mr. President, I rise in support of the amendment offered by the Senator from Illinois. It is a very good one, and a very timely one. This amendment is simply good and prudent planning.

The distinguished Senator from West Virginia has detailed our real concerns with the separate enrollment concept advanced by the Republican substitute. Legal scholars can debate whether the separate enrollment violates the clause of the Constitution. That would be affected regardless of where the Senate comes out on this issue of separate enrollment. It is a constitutional question.

I hope that all can agree that we do not want a constitutional cloud hanging over what I think we will eventually pass in the form of whatever kind of line-item veto or enhanced rescission we come up with here in our debate on a final vote. We do not want that cloud hanging over forever.

The pending amendment simply allows a speedy resolution of this constitutional issue. It does not allow a legal challenge to hang over all the bills for years upon years. Let us provide an expedited judicial review, which the Senator from Illinois suggested. As I understand it, it is identical to what was passed in the House of Representatives.

Possibly this is something that can be passed by a voice vote, since I know of no objection to it on this side of the aisle.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. McCAIN. Mr. President, I appreciate the intentions of the Senator from Illinois. I am in agreement, except with one caveat; that is, that the opening paragraph of the amendment says any Member of Congress may bring an action in U.S. District Court for the District of Columbia for declaratory judgment and injunctive relief on the ground that any provision of this act violates the Constitution.

I have not seen the House language, I say to my friend from Illinois. But I am concerned about any provision of the act which is unconstitutional, and whether the entire act would be unconstitutional, if that was the intent of the amendment. If it was the intent of the amendment, would a severability clause added to the amendment be acceptable to the Senator from Illinois?

Mr. SIMON. Mr. President, if my colleague will yield, Mr. President, I am sure we can work that out. If the Senator's staff will work with my staff overnight, I think we are reaching a point of agreement.

Mr. LEVIN. Will the Senator from Arizona yield briefly?

My understanding is that language tracks the Gramm–Rudman judicial review language as well. That may be helpful as a precedent as you review this overnight.

Mr. McCAIN. I thank the Senators from Illinois and Michigan.

I would like to ensure—and I think the Senator from Illinois is in agreement with me. If one minor provision of the act is declared unconstitutional, I would not want the entire act to be declared unconstitutional. I know what the opponents of this legislation are trying to get at. It is primarily separate enrollment. I understand that. If it were declared unconstitutional, then obviously, the entire act would be out. If it is a minor aspect of it, I would like to not see the entire legislation knocked out.

So I look forward to working with the staff of the Senator from Illinois overnight, and obviously with the good counsel of the Senator from Michigan. I hope we can work that out during the course of the evening.

I thank the Senator.

Mr. SIMON. I thank my colleague from Arizona.

Mr. McCAIN. Mr. President, we will not accept the amendment at this time until we get the language worked out and also in keeping with the wishes of the majority leader that we not do any amendments this evening. But I also would like to assure the Senator from Illinois that I think it is entirely fair and justified to see an expedited review of this legislation.

I ask unanimous consent that the pending amendment be set aside.

The PRESIDING OFFICER (Ms. SNOWE). Without objection, it is so ordered.

Mr. EXON. Madam President, I have been listening all afternoon to the excellent presentation by Senator BYRD from West Virginia and learned a great deal. I think we would all agree that the Senator from West Virginia is a very talented and experienced constitutional lawyer. I thought he brought up some excellent points today, and I simply say that I think it is very important that the Congress listen to somebody with the experience of Senator BYRD and not get ourselves into a situation where we, once again, try, and maybe this time pass, some version of a line-item veto and then have it promptly set aside by the courts. None of us want that. There have been a lot of arguments back and forth, and I will submit for the RECORD at this juncture a statement by Walter Dellinger in front of the Judiciary Committee in January of this year which disagrees with the holding of Senator BIDEN of the Judiciary Committee, the former chairman, with regard to this concept of enrollment.

I ask unanimous consent that that be printed in the RECORD at this point.

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

EXCERPT OF MR. DELLINGER'S TESTIMONY BEFORE THE SUBCOMMITTEE ON THE CONSTITUTION, JANUARY 1995

As much as I regret saying so, I think that Senator Biden's proposal for separate enrollment also raises significant constitutional issues, you know, that would atomize or dismember one of these large appropriations bills into its individual items which the President could then sign. I think it is either invalid under the clause, in my view, or, at a minimum, it raises such complicated questions under the Presentment Clause that it is a foolhardy way to proceed because if we and all of our predecessors are right, I think that which has to be presented to the President is the thing that passed the House and the Senate, and that which passed the House and the Senate is the bill they voted on on final passage, not some little piece of it or a series of little pieces of it. So I have doubts about it.

Mr. EXON. Mr. President, during the extensive debate that has gone on now since 2:15 this afternoon, a lot of things have been talked about. I simply emphasize once again that, as far as this Senator is concerned, I am working very hard and have been for many years to try to come up with something that we can generally agree on, get it passed, hoping it is constitutional. I go way back to 1986 when the then Indiana Senator, Dan Quayle—the predecessor to Senator COATS, who was in the chair most of the afternoon—and I combined at that time on what was called the pork-buster bill. That launched one of the first recent initiatives trying to do something about putting some brakes on some of the pork that goes into the bills.

So, therefore, I wanted to march shoulder to shoulder, as I did with the chairman of the Budget Committee, Senator DOMENICI, this year in introducing S. 4. And then came, of course, S. 14, which came after S. 4. It was introduced by Senator MCCAIN and others. We held a very interesting hearing on that. It now seems that many of the things embodied in S. 4 have changed to the new concept offered by the majority leader last night. I think some significant changes were made that brings the proposal that is now before the body much, much closer to S. 14, which Senator DOMENICI and myself introduced under the number S. 14.

So I think we are making progress. I think we are going to pass something now. But I certainly hope that we recognize and realize that nothing is perfect, and the substitute offered last night, which I understand has been agreed to by most of the Senators on that side of the aisle in the majority, is something that we are looking at. I think some changes would be in order, and I certainly hope that we will not dismiss out of hand the detailed presentation made by Senator BYRD today. The points he made, I thought, were tremendously important, and we should take a look at that.

I am not sure where and when it came after the introduction of S. 4 and S. 14, which were the two principal bills in this area, that had nothing about actions of an enrollment clerk. I am not sure yet how that has become such a centerpiece. I hope that those on that side of the aisle will at least listen to those of us here who would like to suggest and have a vote on what we may think would be a better way that would keep us, hopefully, away from the courts intervening and saying that we have done something unconstitutional.

I simply say that I believe there are some concerns with regard to an enrollment clerk. I listened to the Senator from Indiana this afternoon talk about how computers could be used to expedite this process and it would not be as laborious as indicated in the presentation by Senator BYRD. I wonder if we recognize that the Constitution probably does not allow computers to sign bills or ''billettes,'' as they were called today by Senator BYRD in his rather extensive debate.

When you start talking about this enrollment proposition, I do not believe that the Framers of the Constitution ever envisioned that an enrollment clerk would be involved in such an intricate way. If the enrollment clerk would be required to enroll all of these bills separately, given that, we also have to recognize that the Speaker of the House of Representatives, the President pro tempore of the Senate, and the President of the United States all have to sign these. I suspect and would hope that we would not have changed the system so much that we do not require the signature of those key officers, as established in the Constitution, and that they can sign through a computer. It might well be that we have advanced to the point where the computer can sign the name of the President of the United States. But I suspect that that might be somewhat suspect from a constitutional standpoint.

I simply say, Mr. President, that all we are trying to do here is to move ahead aggressively. Let us have an open debate. Let us not try to shut off debate, because this is a very important matter. Certainly, when you are talking about matters like this, matters that we debate at some length regarding the constitutional amendment to balance the budget—an item, by the way, on which this Senator sided with those on the majority side of the aisle. I still think constructive debate, dialog and discussion is part of the Senate process, and we should not try to move as quickly on everything as does the House of Representatives.

I remind all that the U.S. Senate is not the House of Representatives. If there is one thing that was made clear by the Framers of the Constitution, they felt that the U.S. Senate should be the more deliberative body. That does not mean we should be so deliberative that we get nothing done. Nor does it mean that we have to race down the track like they do in the House of Representatives to meet some magic 100 days that I think means little, if anything, if we are going to properly

discharge our duties in the manner in which we have traditionally done it in the U.S. Senate.

I was extremely disappointed by the vote on the balanced budget amendment. However, we cannot spend the rest of the session licking our wounds and assigning blame. The world did not come to a screeching halt because the balanced budget amendment failed to carry the day. We continue to run deficits and we continue to pile up debt. It is time to move forward on a bipartisan basis. It is time to balance the budget with or without a balanced budget amendment.

Oftentimes, during the balanced budget amendment, I found people talking by each other, as I thought we did to some extent this afternoon. I was here all afternoon. I listened very carefully to the Senator from Indiana. I thought the Senator from Indiana was setting up a straw man and knocking the straw man down, because I have not seen anybody on this side of the aisle or that side of the aisle who has been up talking against the concept, at least, of enacting some kind of enhanced rescission line-item veto. Call it what you will.

So I hope that we are not going to be talking a great deal during this debate assuming that there are people on this side of the aisle that are trying to stop this. I assure you, Mr. President, and I assure all Members on both sides of the aisle that I see no determination on either side of the aisle of a filibuster.

But I do see a desire to thoroughly think things through and then move ahead.

But back to the situation at hand. A long time ago, I hitched my wagon to fiscal discipline and responsibility. I certainly do not plan to switch horses because of one setback in the form of the constitutional amendment to balance the budget.

Nebraskans care more about what we leave than what we take. I do not choose to leave other's children or my grandchildren trillions of dollars in debt.

I will not leave them a Nation where we spend 17 cents of every tax dollar for interest on the debt. I will not rob them of thousands of dollars that they will have to pay to service the debt even before we begin to start reducing the principal. That is what the debate on the balanced budget amendment and it is what the debate here is all about—how do we best do these things in a fashion that gets them done?

I will not cheat them, my children or grandchildren, out of the legacy they so richly deserve. We must do everything in our power to blot out the red ink.

I am a realist, though, Madam President. The legislation before the Senate today will not break the back of the deficit, and we should all understand that. It will not cause the mountain of debt to vanish into thin air. But it will rein in pork-barrel spending, and that is an enormous step in the right direction.

Madam President, there is a common thread between this legislation and the balanced budget amendment. When we debate either measure, this Chamber sounds like a revival tent of sinners repenting. Senators vow to refrain from wasteful spending.

I say, ''All evidence to the contrary.'' We have been out of control and spending abounds. The only thing in short supply is self-restraint.

Revenue acts are chocked full of special interest tax credits and expenditures. Appropriations bills are larded with pet projects that cost the taxpayer billions of dollars. There are groaning with pork that is carefully tucked away—so carefully placed that the President cannot extract it without bringing down the entire bill.

Our colleagues have become quite skillful in slipping in these projects. The President has a tough choice to make. Will the President veto an appropriations or revenue bill just to get rid of the pork?

My colleagues know the drill and how it works. The President brings out the scales and weighs the good against the bad. More often than not, the President holds his nose and signs the bill.

The obvious solution is to grant the President the line-item veto, more properly called, I suspect, an ''expedited'' or ''enhanced'' rescission authority. That is what we are about and I think that we are going to accomplish it this time.

Suffice it to say, there are few in this body and even fewer in the House who have firsthand experience with or have ever experienced a line-item veto. It is my hope that the limited few, with firsthand experience, will be listened to.

Today, 43 of the 50 State Governors have some form of veto authority. As Governor of the State of Nebraska, I was privileged to have that line-item veto. It was an invaluable weapon in my arsenal to control spending by my State legislature.

I think the President of the United States, President Clinton and all the Presidents that come after him, should have a line-item veto authority so that they can take similar action, as I think the President of the United States can and should do if we can do it in a fashion—and I emphasize, Madam President, if we can do it in a fashion—that is not on its face constitutionally suspect.

I have long believed that the President should have this power. All but two Presidents in the 20th century have advocated some type of line-item veto authority. President Clinton strongly supports it.

On the first day of the 104th Congress, I joined in introducing the legislative line-item veto proposal, known as S. 14. This bipartisan compromise was cosponsored by the distinguished Republican and Democratic leaders, the chairman of the Budget Committee, Senator DOMENICI, and Senators BRADLEY, CRAIG and COHEN. The original S. 14 stood in stark contrast to some of the other line-item veto proposals.

I am not saying that ours was perfect and I do not think others were.

S. 14, though, would have forced Congress to vote on the cancellation of a budget item proposed by the President. However, it needed only a simple majority of both Houses of Congress to override the President's veto. This proposition was a viable alternative if it was still a fact, as I suggest it was and maybe still is, that S. 4 as introduced would fall to a filibuster. I do not think any of us wanted that.

S. 4, as originally introduced, would be the legislative equivalent of shooting oneself in the foot, in my view. If we are serious about reducing the deficit, tax expenditures should be included in any line-item veto legislation. Anything else would be a half measure. The significantly revised S. 4 that has been introduced by the Republican leader as of yesterday has come a considerable distance towards addressing the concerns that this Senator had with that portion of S. 4. But S. 4 also had a lot of good things in it.

Mr. President, a little history, I think, is in order. On February 3, 1993, the Budget Committee held a hearing on the impact of tax expenditures on the Federal budget. What we found was rather startling. At that time, tax expenditures were projected to cost more than $400 billion and were slated to increase to $525 billion by the year 1997. Today, tax expenditures are $450 billion and are projected to rise to $565 billion in 1999.

Like entitlement programs, tax expenditures cost the treasury billions of dollars each year. And like entitlements, they receive little scrutiny once they are enacted into law. Even though they increase the deficit like mandatory programs, tax expenditures escape any sort of fiscal oversight. Indeed, by masquerading as tax expenditures, a program or activity that might not otherwise pass congressional muster could be indirectly funded. Certainly I would say that we have to take a look at these things and a close look.

Office of Management and Budget Director Alice Rivlin correctly summed up the situation, and I quote:.

> Tax expenditures add to the Federal deficit in the same way that direct spending programs do.

If we are willing to subject annual appropriations to the President's veto pen, then that same oversight should be granted to the President on tax expenditures. Pork is pork. We should be willing to say ''no'' to both spending pork and tax pork. The revised S. 4 finally recognizes some of its earlier shortcomings, in the view of this Senator.

For too long, many of our colleagues have clung to the thin reed that we can

solve the deficit by cutting only appropriated spending. Unfortunately, the reed has given way and we are sinking in an ocean of red ink.

In spite of the pay-as-you-go provisions of the 1990 Budget Enforcement Act, entitlement spending is the largest and fastest growing part of the Federal budget. The terrible truth is that entitlement or mandatory spending is projected to grow from about 55 percent of the Federal spending in the current fiscal year to 62 percent in the year 2005.

The surge occurs in Federal health care programs. They are the only programs that will grow at a rate significantly faster than the economy, increasing from 3.8 percent of the gross domestic product in fiscal year 1995 to 6 percent of GDP in 2005.

On the other hand, discretionary spending, which currently makes up only about one-third of all of the Federal budget, has been significantly curbed. It is expected to decline as a percent of the economy over the same time period.

However, we cannot take much comfort in this success story. As much as we cut away at the fat and well into the bone in appropriated spending, we get to a point of diminishing returns. We will not be able to balance the budget if we rely essentially only on appropriated spending, as anyone who understands the budget process knows. Sooner or later we must look the deficit squarely in the eye and make some tough and painful choices. Entitlement spending and tax expenditures are two that we can no longer avoid.

The new found Republican realism about a sunset provision in the amended S. 4 is helpful in improving chances to pass the legislative line-item veto. This is a brandnew legislation that is untried and untested. The sunset provisions will allow Congress to look at any glitches and problems that may arise. If for some reason the line-item veto does not perform to our expectation, we can trade it in and start anew.

I also have been stressing that the only way to bring down the deficit is on a bipartisan basis. I support the line-item veto legislation, but some of my colleagues have doubts. A sunset provision will ease some of those concerns because this bill will not be carved in stone. We will be able to revisit the bill at a day certain and make some changes if necessary.

During markup, I offered several sunset provisions that failed on party line votes. I am pleased that the majority has reconsidered.

The legislative line-item veto does not exist in a vacuum. We must revisit the entire Budget Act in 1998. That is when the caps and other major provisions, including the one that creates a 60-vote point of order and the system of sequesters, expires. What better time to reexamine the legislative line-item veto?

Madam President, I have finally had an opportunity to review the majority party substitute version of the line-item veto legislation. I must say at the outset that I am extremely disappointed by the manner in which this bill was brought to the floor and how the majority party apparently hopes to force this bill through very quickly.

As the majority leader knows and as the chairman of the Senate Budget Committee knows, there are many on this side of the aisle who would like to see a line-item veto bill pass this Senate. I think it will. We have been working on a bipartisan basis to do so. As evidence of the bipartisan effort, I note that the majority leader and the minority leader were cosponsors of S. 14 as introduced by Chairman DOMENICI and myself. As a long-time supporter of the line-item veto legislation, I am very encouraged that this topic is finally being debated on the floor of the Senate.

I hope and trust that the majority leader will back off of some of the tactics and the ''hurry up'' actions that have been so far demonstrated.

I am reminded of what the great historian Barbara Tuchman wrote about the 14th-century knights of war:

> They were concerned with action, not the goal—which was why the goal was so rarely attained.

If we can have a free and open debate, absent hardball politics, and if we can keep our focus on the attainable goal and not just partisan reactions, we can prevail.

Madam President, I have some concerns regarding the substitute that is before the Congress, although I think it is a vast improvement over what we have considered previously. Although I understand the need for changes and compromises, this bill raises some questions that I think need to be fully explored.

For example, the majority party has chosen to vest in the enrolling clerk the power to divide up appropriations bills into many, perhaps hundreds, of pieces. How might such a procedure actually work in practice? Is such a procedure realistic? Legislative drafters already are coming up with ways to get around this bizarre mechanism.

There are many other troubling questions regarding the substitute, but I think they can be corrected if we can work together, at least corrected to satisfy this Senator and most on this side of the aisle.

For example, what is to prevent the Congress from enacting provisions that do not take effect until other specified provisions take effect? Or, what about a provision that spends $80 million if, and only if, a second provision spends $20 million, but suspends $100 million if the second provision is not enacted? What about a provision that funds every item specified in a separate piece of legislation?

The majority substitute does not allow the President to veto these provisions effectively. The legislative process may end up the victim much more so than all would like to see.

The measure before Members raises constitutional questions as well, as Senator BYRD so eloquently pointed out earlier today. It would be very unfortunate if after all of these years the Congress was finally successful in passing a line-item veto, only to have it declared unconstitutional by the U.S. Supreme Court. Other proposals such as S. 14 do not have that potential Achilles heel.

There are also issues which the substitute does not address that I think it should. I believe that most Members would agree as they look at the measure objectively. For example, the President cannot—I emphasize cannot—reduce any amount. The President can only sign or kill it. He cannot scale it back to a more reasonable amount. Under S. 4, the President had that option of reducing the amount.

In closing, let me say, Madam President, what about the goal of reducing the deficit? S. 14 wisely includes a lockbox to ensure that any money saved in rescission goes to reduce the deficit. The Republican substitute includes no deficit reduction lockbox. I think it should. And I think when my friends on that side of the aisle take a look at that, they will agree.

In conclusion, then, I believe the substitute needs further consideration, although I am disappointed by the process used by the majority leader to force a cloture vote immediately—supposedly tomorrow—to cut off debate on this important matter. I am encouraged that the substitute bill has moved in the right direction by including tax expenditures, which previous versions of that did not. Yet it is far from a perfect bill and could be improved by addressing some of the concerns that I have mentioned and others that will be addressed by Senator LEVIN and other of my colleagues.

Mr. President, in the hours and days ahead, I hope we can put aside overheated rhetoric and partisanship on the legislative line-item veto. No Senator has a monopoly on all of the issues. No Senator is all right or all wrong. No Senator has all the answers.

I hope that we can accommodate as many views as possible during the upcoming debate. If we stay on this track, Madam President, we will pass a legislative line-item veto—or call it what you will—that is as good as a promise that I think we can do in keeping faith with the American people. I thank the Chair.

I yield the floor.

Mr. MCCAIN addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Arizona.

Mr. MCCAIN. I will be very brief. I have a lot of responses to the statement from Senator EXON, but I think for the record, it might be interesting to point out that I count 22 of the 34 amendments from that side come from Senator EXON.

One, sunset in 1997; sunset in 1998. When I see the amendments, I understand the frustration of the majority leader. I can assure the Senator from Nebraska there may be changes made to this bill. One thing I can assure the Senator from Nebraska. We will not change the two-thirds majority required to override the President's veto.

If there is anything that is clearly unconstitutional, it is to call a veto a majority vote by one House. I would be more than happy to respond to the other remarks of the Senator from Nebraska after the Senator from Michigan and then the Senator from Wisconsin finish their statements.

I also finally state unequivocally, the Senator from Indiana on the floor here was not setting up any straw men. The Senator from Indiana has been involved in this issue with me for 8 years. The Senator from Indiana does not set up straw men.

I have watched the debate, and the Senator from Indiana has conducted, I thought, a very illuminating and important debate between himself and Senator BYRD. Senator BYRD, as always, does an outstanding job, and I am proud of the outstanding job defending his point of view and his perspective that the Senator from Indiana conducted himself in such fashion. I am proud. I reject any allegation that he sets up any straw men.

I yield the floor.

Mr. EXON. Madam President, if I could correct just one impression that the Senator from Arizona said about the filing of amendments.

As a manager of the bill, I filed a whole series of amendments before 1 o'clock today, which I had to do to protect this side from a whole series of important matters that we thought were necessary on this side.

I simply advise my colleague from Arizona that as of the breakdown, the Senator from Nebraska has only four amendments, and I think we will dismiss two of those, which gives the manager of the bill only two amendments. And I think, by any measure, that is reasonable.

I yield the floor.

Mr. LEVIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Madam President, first let me comment on a couple of the points the Senator from Nebraska made in which I concur. He indicated most, if not all of us, support some form of line-item veto, and I think he is right. I think that just about every Member of this body wants to give the President greater control over individual items in appropriations bills. I am one of those. I happen to support S. 14. I think it is constitutional, which is very important to me, and I think it gives the President additional power without running into the clear provisions of the Constitution relative to the presentment clause.

I also agree with the Senator from Nebraska when he says not to rely too much on line-item veto to cure our budget problems and our deficit problems. It has proven historically not to be a significant cure in States when it comes to the amount of money which has been vetoed by Governors. It is a deterrent. That is worth something, clearly.

We, at one point, submitted a budget, I believe, to President Reagan and said, ''If you had line-item veto, what would you veto?'' And I think his total vetoes came to be about 1 or 2 percent of the deficit that year, a very small percentage of the deficit. So it is not a major cure for willpower.

It may or may not do some good, depending on how the President uses it. It actually can do some harm if he uses it wrong. Nonetheless, the Senator from Nebraska is correct that it is not going to significantly reduce the deficit. It may help somewhat slightly, but do not rely on it too heavily.

Further evidence of that is the fact that the President controls every line of the budget that he submits to the Congress. Each line in those budgets is a line which has been approved by the President or the President's staff.

During the 12 years of the two Reagan administrations and the Bush administration, six times out of the 12 years, the appropriations in Congress exceeded those requests. Six times Congress reduced appropriations below the level requested by those two Presidents.

If you look at the average appropriations level that the Congress appropriated compared to the appropriations requested by the President, again, where the President has control over every line, in the Reagan years, the average appropriation by Congress was $1.7 billion less than requested by President Reagan, and the appropriations during the Bush years were $3.7 billion less than the appropriations requested by the President.

So we cannot just say Congress has been the source of the deficit problem. It has been a joint problem. Presidents, as well as Congress, have contributed to it at least equally—at least equally. And if you look at averages, slightly more by the executive branch than by the legislative branch. So when we talk about those add-ons, those back-home projects, that does not explain the deficits that we have run up during the 1980's. It is much deeper than that. It is much more complicated than that, and if we think line-item veto is going to cure it, we are making a mistake, because it will not. Will it help? I think it could.

In my book, it has to be constitutional or I cannot vote for it. S. 14 is constitutional and I am able to support that and vote for it as a substitute to the substitute when we get to it. But the Dole substitute before us, I believe, is unconstitutional and is unworkable.

Before the Dole substitute was presented to us, we had two line-item veto bills reported out of the Budget and Governmental Affairs Committees, two different line item vetoes. One was an enhanced rescission and one was expedited rescission. One clearly constitutional, one of debatable constitutionality.

But now we have a third one, a very different bill than was reported by either the Budget or the Governmental Affairs Committee.

The top constitutional experts of the Clinton administration and the Bush administration do not probably agree on a whole lot, but they do agree on one thing. As much as they want to see the enactment of a line-item veto, because both President Bush and President Clinton want line-item veto, both their top constitutional experts have serious constitutional problems with this separate enrollment approach which is now before us. I think it is fair to say that both—and I am going to read their words —believe that this approach is unconstitutional.

The Constitution, as Senator BYRD has gone through this afternoon, establishes the method by which laws are enacted and by which they are repealed. It specifies a bill becomes a law when it is passed by both Houses of Congress, signed by the President, or if the bill is vetoed by the President, when that veto is overridden by a two-thirds vote in each House.

The substitute before us purports to create a third way by which a law can be made, by giving the Clerk of the House of Representatives and the Secretary of the Senate the power to enroll and to send to the President for his signature bills that have never passed either House of the Congress.

Madam President, I do not believe that we can or should seek to override constitutionally mandated procedures by statute. We cannot do it if we wanted to, but we should not do it and should not try to do it.

Article I, section 7 of the Constitution says that each ''bill which shall have passed the House of Representatives and the Senate shall be presented to the President for signature.''

The Constitution does not say that pieces and parts of bills passed by the Congress may be presented to the President for signature. It does not say that line items or paragraphs or subparagraphs of bills passed by the Congress shall be presented. It says that bills passed by the Congress shall be presented to the President for signature.

Lewis Fisher of the Congressional Research Service explained the problem several years ago when he testified relative to an early version of this separate enrollment approach, and this is what Dr. Fisher said.

He said under that bill:

> The enrolling clerk would take a numbered section or unnumbered paragraph and add to it an enacting or resolving clause, provide the appropriate title and presumably affix a new Senate or House bill number. Such a bill, in the form as fashioned by the enrolling clerk, and submitted to the President would not appear to have passed the House of Representatives and the Senate.

In other words, the bill that is presented, or the bills, the wheelbarrow full of bills that is presented to the President, has not passed the Senate and the House. It is different from the bill that we passed. It is bits and pieces of a bill that we passed, and that is the problem with the Dole substitute before us. It purports to give to the Clerk of the House of Representatives or to the Secretary of the Senate the power to attest and to send to the President for his signature bills which have not been passed by the House or the Senate.

Under the Constitution, a bill cannot become law unless that bill has passed both Houses of Congress.

Madam President, I have no doubt that the Congress could, after passing an appropriations bill, take that bill up again, divide it into 100, 200, even 1,000 separate pieces and pass those pieces again as freestanding measures. Those separate bills then would have been approved by the Congress and could be sent to the President for signature. I even suppose that we could adopt some form of streamlined procedures for consideration of these separate parts, these separate pieces of legislation.

While that approach would result in the President spending hours and hours signing various pieces of a single appropriation bill, it at least would be constitutional. We would have adopted the same bills that the President is signing. But the bill before us contains no requirement for any consideration of the separate measures by the Senate and the House. Rather, it directs the enrolling clerks to create such separate bills and to send them to the President as if—as if—passed by the Congress.

The Supreme Court held in the Chadha case that the legislative steps outlined in article I of the Constitution cannot be amended by legislation. We cannot amend article I of the Constitution by legislation. We may want to do it. We may have a good motive in doing it. Our goal may be important and great. But we cannot amend the Constitution by legislation. And this is what the Chadha Court said:

> The explicit prescription for legislative action contained in article I cannot be amended by legislation. The legislative steps outlined in article I are not empty formalities. They were designed to assure that both Houses of Congress and the President participate in the exercise of lawmaking authority.
>
> The bicameral requirements—the presentment clauses, the President's veto, and the Congress' power to override a veto—were intended to erect enduring checks on each branch and to protect the people from the improvident exercise of power by mandating certain prescribed steps. To preserve those checks and to maintain the separation of powers, the carefully defined limits on the power of each branch must not be eroded.
>
> With all the obvious flaws of delay, untidiness, and potential for abuse, we have not yet found a better way to preserve freedom than by making the exercise of power subject to the carefully crafted restraints spelled out in the Constitution.

Madam President, President Clinton favors a line-item veto. His top aide, the top official of the administration on matters of constitutional law, Assistant Attorney General Walter Dellinger, testified earlier this year that the enhanced rescission bill introduced by the Senator from Arizona would probably be found to be constitutional, a conclusion with which I happen to disagree but nonetheless the top constitutional lawyer in this administration found that the approach of Senator MCCAIN would likely be found to be constitutional.

However, even Mr. Dellinger could not find a way to get around the constitutional problems with the Dole substitute now before us. The separate enrollment approach, Mr. Dellinger testified, runs into the plain language of the presentment clause in article I. This is what Mr. Dellinger said:

> As much as I regret saying so, I think that the proposal for separate enrollment also raises significant constitutional issues. I think it is either invalid under the presentment clause or at a minimum it raises such complicated questions under the presentment clause that it is a foolhardy way to proceed.

This is the sentence that I now want to emphasize of Assistant Attorney General Dellinger.

> If we and all our predecessors are right—we and all of our predecessors in that office are right—
>
> that which has to be presented to the President is the thing that passed the House and the Senate and that which passed the House and the Senate is the bill they voted on final passage, not some little piece of it or a series of little pieces of it.

Now, on March 16, just a week ago, in a memorandum to Judge Mikva, White House Counsel, Dr. Dellinger, reiterated the constitutional problems with the amendment now before us, with the Dole substitute, and this is what he said.

> On what seems to us to be the best reading of the presentment clause, what must be presented to the President is the bill in exactly the form in which it was voted on and passed by both the House of Representatives and the Senate rather than a measure or a series of measures that subsequently has been abstracted from that bill by the clerk of the relevant House.

That is the top constitutional official in the administration, in this administration that wants line-item veto. That is what they have concluded. The best reading of the presentment clause says that the bill going to the President has to be the same bill in the same form that we passed.

He went on to state—but, of course, this constitutional question is open to debate like all constitutional questions, I presume. He also said that it would have a better chance to be ruled constitutional if it made some provision, in this approach, for Congress to take up the separate bills and to pass them en bloc.

The substitute before us, Madam President, contains no such provision to address the constitutional infirmity that Mr. Dellinger pointed out.

Now, President Bush has also been a strong advocate of line-item veto, but the top constitutional law expert of his administration also has taken the position that separate enrollment is unconstitutional. Former Assistant Attorney General Timothy Flanagan testified before the Judiciary Committee as follows:

> One type of line-item veto statute would attempt to avoid the problem of the Constitution's all-or-nothing approach to Presidential action on bills by providing that after a bill had passed the House and Senate, individual titles or items of the bill would be enrolled and presented to the President as separate bills.
>
> Such an approach suffers from a number of constitutional defects. First and foremost, the Constitution plainly implies that the same bill upon which the Congress voted is to be submitted to the President. If the Constitution's text is to be read otherwise to permit the presentment requirement to be met by dividing a bill up into individual pieces after Congress has passed it and before presentment, then there is no logical reason why the opposite process could not be permitted. Congress could require individual appropriation bills as well as others to be aggregated into a giant omnibus bill before presentment to the President as a single opus.

And again this is what President Bush's top constitutional lawyer in the Justice Department is telling us. He concluded:

> In my view, the Constitution permits neither result but requires that the bill be presented to the President as passed by Congress.

As passed by Congress.

So the top constitutional experts, Madam President, of both this administration and the prior administration agree that the separate enrollment approach taken by this substitute has great constitutional problems.

Now, the amendment before us attempts to address the constitutional problems with the separate enrollment approach by stating that each, each of the separate bills enrolled and sent to the President ''shall be deemed to be a bill under clauses 2 and 3 of section 7 of article I of the Constitution.''

Now we are going to amend the Constitution by a statutory deeming process, and how convenient.

I suppose we could pass other laws, under this theory, which contravene the Constitution, and deem those provisions to be constitutional as well. We do not have that power. We did not have it before Chadha, when the Supreme Court wrote that we cannot amend the Constitution by legislation. And we do not have it after Chadha.

It does not do any good to deem separate measures as bills. The question is not whether they are bills in an abstract sense, the question is whether they are bills ''which shall have passed'' both Houses of Congress as required by the Constitution.

These bits and pieces, the product of disassembling a bill, these parts have not passed either House in that form

and may never have passed either House in that form. No amount of deeming, as convenient as it is, can change that.

The Constitution does not say that pieces and parts of bills passed by the Congress may be presented to the President. It does not say that line-item vetoes or paragraphs or subparagraphs of bills passed by Congress shall be presented to the President. It says that the actual bills passed by Congress shall be presented to the President for signature.

This may all sound like process and a technicality, but it is the essence of what we do around here. A vote for a bill is not the same thing as a separate vote on each of its provisions. The bill is a whole and we finally vote on it as a whole. We all vote for bills. I think every one of us has said on the floor of this Senate or on the floor of the House or in a speech somewhere: I do not agree with every provision in this bill but I am going to vote for it because on balance there are more good provisions than bad provisions.

When we, as Members of the Senate, vote for final passage of a particular bill, we are not voting on each provision as though standing alone. We are voting for the whole. And the reality is—our real world is—that if we chop up a bill into its component parts for the President to sign we would be creating very different bills from the one bill that actually passed the Congress.

Let me just take the supplemental appropriations bill that we just passed. This was a defense supplemental appropriations bill that was adopted last week. By my count, there are approximately 78 separate items in this bill and that does not include suballocations, which would make it a much larger number of items. But just not including suballocations, I think there are 78 separate items in this bill. Each of these would be enrolled under the Dole substitute before us. That includes 12 paragraphs of appropriations for military personnel, 20 paragraphs of rescissions—20 paragraphs of rescissions of DOD appropriations—and 18 paragraphs of rescissions of non-DOD funds. There are also 20 general and miscellaneous provisions in here, in this bill we just passed, which would have to be enrolled separately under the amendment before us.

I voted for this supplemental bill. I did not vote for each of those 78 items separately and I would not have voted for a lot of those separately. Under the approach that is before us now, the President would be voting—each separate 78, the President would be deciding on whether to sign 78 separate bills, whereas we did not vote separately on 78 separate bills, and a whole bunch of those may not have passed as 78 separate bills. And the whole bill may not have passed had some of those 78 separate items not been included in the bill.

If we had a separate vote on each of the separate items in the defense appropriations bill, some might have passed, some might not have passed. But we did not do that. We voted on the package. If we had voted again on each of these items separately, the final outcome might have been very different. Some may have voted for the final bill, this full bill, specifically because of the inclusion of specific items in the package. That may have actually won the vote of some of us. We do that all the time. ''Unless these provisions, 1, 10, 30, and 38, are in this bill, I cannot vote for it.'' If those items were in separate bills, some of us may have chosen not to vote for this single supplemental appropriations bill.

Let me just give a couple of examples. Section 108 of the defense appropriations bill contains a requirement for a report on the cost and the source of funds for military activities in Haiti. This is a separate section of the bill, section 108. Under the substitute before us, it would be separately enrolled and the President could veto it. But some of us may have voted for the funds provided in this bill for operations in Haiti only because there was another provision in this bill requiring a very important report. Would the appropriation have passed without the reporting requirement? We do not know. We did not vote on it.

Section 106 of this bill contains defense rescissions. Those rescissions are intended to pay for the appropriations that are made in the bill. We are rescinding some previous appropriations in order to pay for some current appropriations. Under the amendment before us, each of the rescissions would be separately enrolled and sent to the President for signature. The President could veto any or all of the rescissions. But how many of us would have voted for the appropriations if they were not paid for by the rescissions? Would the appropriations have passed without the rescissions? That is a very basic point. That was a matter of real contention, as to whether or not we should be appropriating money in this supplemental unless we were defunding, unappropriating, rescinding previous appropriations. Would that bill have passed without those rescissions? We do not know. We did not vote on that.

Under the substitute before us, the President will decide whether to sign separately the rescissions and the appropriations. That is very different from what we voted on, one package with both.

The supplemental appropriations bill that we passed last week was actually a rather simple bill as appropriations measures go. We routinely pass appropriations bills that contain hundreds, even thousands of items. Here is a quick listing of last year's appropriations bills, how many items they had, not including what are now called suballocations. I will get to that issue in a moment. But without getting even to pulling apart paragraphs, just looking at paragraphs themselves, numbered or unnumbered, without subdividing paragraphs into suballocations, last year's appropriations bills had the following number of items: Commerce, Justice, and State had 214; Defense, 262; Transportation, 150; foreign ops, 150; Agriculture, 160; Treasury-Postal, 252.

I will stop there, and I ask unanimous consent the list be printed in the RECORD.

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

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

Commerce, Justice and State Appropriations—214
Defense Appropriations—262
Transportation Appropriations—150
Foreign Operations Appropriations—151
Agriculture Appropriations—162
Defense Construction Appropriations—45
Veterans Affairs, HUD, and Indep. Agencies—174
Treasury, Postal Service Appropriations—252
Legislative Branch Appropriations—114
District of Columbia Appropriations—86

Mr. LEVIN. Madam President, I am told one of the omnibus appropriations bills that passed the Congress in the mid-1980's had over 2,000 line items. Again, I think that is without those suballocations, so we could multiply that significantly.

Some of the items, by the way, some of the items in appropriations bills increase spending levels. We know that. That is what is usually thought of when we increase spending.

But other items in appropriations bills decrease spending levels or they set conditions on spending or they prohibit spending for certain purposes. We have provisions in appropriations that reduce or limit spending. Those are rescissions. There are also conditions placed on expenditures, and prohibitions, again, for spending for particular purposes.

If those provisions are placed in separate sections, as they frequently have been in the past, they could be vetoed under the substitute before us. The President could use the line-item veto to actually repeal, to stop, the prohibitions on spending that we put in the appropriations bills. That would increase spending. They are not uncommon. Limitations on appropriations or on rescissions are not uncommon. We have plenty of them just voted on. Yet, a line-item veto could be used. When used against rescissions or prohibitions on limitations, it could end up increasing spending and not cutting spending.

The bottom line is that Members who vote for an appropriations bill usually do not support every item in it. We do not vote on each of those items separately. We would not know what the result would be if we cast such votes on each item separately. We finally vote on an entire packet. That is the bill that we pass, and that is the bill that must be sent to the President under the Constitution. I believe that in an appropriations bill of any size, each of

us likes some of the provisions and dislikes others. That balancing is the essence of the legislative process. It is what enables us to legislate. In many cases, it is what enables us to cut appropriations.

For instance, I may be willing to accept a significant cut in a program that affects my State because I know that a sacrifice will be shared, because I know that in the bill it causes a cut in a program that is good for my State where other programs that benefit other States are being cut in the same bill. That does not mean that I would have voted for the cut on the one appropriation involving my State as a freestanding measure. It is because the pain is distributed as part of a package so that we are often able to support an overall measure.

The Constitution says one thing that is so critical to this substitute. Only those bills which shall have passed the Senate and the House of Representatives are to be sent to the President for signature. The substitute before us says something quite different; that the President would get pieces of bills that we have passed instead of the bills themselves. That approach is plainly at odds with the requirements of the Constitution, and we should reject it.

Madam President, I do not know if there are others who are waiting to speak. I have some additional points that I want to make on the practical problems with the enrollment process that relate to an amendment that I will be offering tomorrow. I am wondering if I might ask my friend from Wisconsin about how long he expects to be, if I may ask unanimous consent to make that inquiry.

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

The Senator from Wisconsin.

Mr. FEINGOLD. Madam President, I think roughly half an hour.

Mr. LEVIN. Madam President, I will try to conclude in about 10 minutes and then give my friend some time.

The PRESIDING OFFICER. The Senator may proceed.

Mr. LEVIN. Madam President, the majority leader said yesterday that the Senate would have an easy time adopting this substitute. One of the reasons was that most of its provisions have been considered by the Senate and passed. There is a lot of new language in the substitute. It is worth taking some time to analyze that new language. For example, the first half of the substitute is devoted to points of order against any appropriations bill that fails to include in the bill language detail that is in the committee report. I do not think that has been proposed before.

We tried to check the separate enrollment approach. I do not believe that has ever been part of the bill before. I do not think it has been considered by the Senate. If I am wrong, I will stand corrected. But it is going to have a significant impact on the appropriations process. It is going to be much more rigid. We are going to have much lengthier, cumbersome appropriations bills. But, nonetheless, whether it is good or bad, it is different from what we have had before.

But I want to focus on a different provision. That is the definition of the term ''item.'' This provision is the key to the entire bill because an ''item'' is what must be separately enrolled. That is the test of whether or not the enrollment must be made separate by the clerk. There is some very significant new language in this substitute which again, to the best of our ability, does not appear in previous legislation that we have considered.

The term ''item'' means (a) with respect to an appropriations measure; No. 1, any numbered section; No. 2, any unnumbered paragraph, or, No. 3, any allocation or suballocation of an appropriation made in compliance with section (2)(a) contained in a numbered section or an unnumbered paragraph.

It is those words ''allocation or suballocation'' which are the new material. The earlier bills referred to items as being either numbered sections of a bill or unnumbered paragraphs of a bill. So the enrolling clerk could take any numbered section or any unnumbered paragraph and separate it out and enroll it. That is what has been considered in these bills today relative to separate enrollment. But now in the substitute before us we have an additional thing that has to be subdivided out. That is something called an allocation or a suballocation of an appropriation that is contained in either a numbered section or an unnumbered paragraph.

How do we break the allocation or suballocation out of a bill and enroll it as a separate bill? We do not have to wonder totally about that because the Senator from Indiana has already asked the enrolling clerk to put together a sample appropriations bill for us based on last year's Commerce-State-Justice appropriations bill and has asked the enrolling clerk to take that actual bill and to subdivide it according to this substitute. That is what the Senator from Indiana called a trial run. He is a very, very thorough and a very thoughtful Senator and took the time to go to the enrolling clerk and say, ''Here, take last year's State-Justice-Commerce appropriations bill and apply the approach that is used in the substitute to that bill.''

He explained on the floor the other day—and he explained again this afternoon—that we have all kinds of new technology. We can use computers. We can punch buttons, and we can subdivide bills in pieces. We do not have to have the enrolling clerks in green eyeshades who are trying to figure out what is going on and type things out in longhand. We have computers. ''Modern technology'' is what the Senator referred to; ''miracle of modern technology.'' It is no longer a difficult process. He used the words ''easy, accurate and fair.'' I believe those are his words. I hope I am quoting him correctly. He quoted the enrolling clerk last week. He said it is at least 1,000 times faster than the old system with today's technology. Then he said he asked the enrolling clerk to do a trial run. He took the largest bill that we passed, State-Justice-Commerce and Judiciary, and asked him to separately enroll it.

Well, the stack of paper which we got from the enrolling clerk was pretty thick. Here is a copy of the way it came out. This is what we sent to the President last year. This is what goes to the President this year. The pamphlet was about 50 pages long. There are 582 bills in here, or items. This is just one appropriation bill. This is a 3-inch-thick stack. Mind you, this is not a 3-inch bill. This is 582 bills here that go to the President—each separate, signed by the Speaker, signed by the President of the Senate, sent to the President for signature. But that is only the writer's cramp part of it. That is interesting, but that is just hours and days of the President's time.

Another interesting question is what is in these pieces of paper, this trial run, this bill, that was said to be so successful by our friend from Indiana. What is the product when you punch the computer and come out with 582 pages, when you suballocate a paragraph, you rip out a paragraph, and you get a bill that can stand on its own, with four corners? We tried looking at that. Here is one of the bills. The Chair has good eyes, but I am afraid this is far away. I will read it. It has all the formal headings, and it sure looks like a bill. If you took a quick glance at that, you would say it is a bill. It has fancy writing at the top; it is italicized. All good bills are italicized. ''103d Congress, second session, in Washington,'' and then it says, ''An act making appropriations for the Department of Commerce, Justice, and State, related agencies * * * be it enacted * * * the following sums are appropriated out of the Treasury''—and then you get to the text of the bill. What looks like a bill is incomprehensible. This is the text of that bill. It says, ''of which $200,000 shall be available pursuant to subtitle (b) of title I of said act.''

That is the bill the President is supposed to sign in this test run. What act? This act? No, not this act. If you go back to the bill which no longer exists, which has been cut up like a salami into all these slices, then you can figure out that they are not relating to this act. It is some other act. It is the crime bill of last year. The computer generated this in a successful trial run. Hundreds of pages are just like this.

(Mr. SANTORUM assumed the chair.)

Mr. MCCAIN. If the Senator will yield, has the Senator ever examined the appropriations bills that are normally passed through here and tried to ascertain which funds went where, under what circumstances, and maybe he can explain why it takes days, weeks, sometimes months, to figure

out who got what money under what circumstances? I suggest—and I ask the Senator from Michigan if that is more complicated than that is, since I have spent a lot of years trying to figure out where the pork goes in appropriations bills and it has taken weeks and months for experts to figure it out. I think it might be easier to figure it out that way. All they have to do is pick up the phone and ask, ''What is that $200,000 or $300,000 for?'' And then they can respond.

Mr. LEVIN. Where do you look to find out?

Mr. MCCAIN. You call up the people who wrote the bill.

Mr. LEVIN. The bill——

Mr. MCCAIN. It is far better, in my view, to have a single line there than the pork that is hidden away and tucked into little areas of the appropriations bills which sometimes people never ever find.

Mr. LEVIN. I tell my friend that at least you can find them if you look. In this bill you cannot find them. That is the bill.

Mr. MCCAIN. That is the bill. That applies to a certain section, which all you have to do is ask, ''What does it apply to?'' If the President asks that and it applies to a piece of pork, he can say, ''Fine, I will veto that.''

Mr. LEVIN. That is the whole bill. It says, ''$200,000 shall be available pursuant to subtitle (b) of title''——

Mr. MCCAIN. Yes, and they might say, ''Well, it is a special project in Michigan.'' And the President might say, ''Fine, thanks. Now I know that, and I will veto it.''

Mr. LEVIN. There is no way of knowing if it is a special project. This is the entire bill.

Mr. MCCAIN. All they have to do is ask.

Mr. LEVIN. If I can say to my friend from Arizona, when the computer split up this appropriations bill into these pieces, this is the bill which the President signed. He can ask day and night for all the information he wants. That is what the bill says. In an appropriations bill now, sure it may take you some time to figure out what the crosswalks are, but you can find out from that bill and the conference report for that bill exactly what it is. In this, 571 bills that are going to the President, each one a separate bill, and it is gibberish, you cannot figure out what that is.

Mr. MCCAIN. If I can respond to my colleague, and I know we are skirting the rules of the Senate. All I have to do is ask, ''What section is that under; what part of the entire bill was enrolled by the enrolling clerk?'' There was a bill that was enrolled, and what does that apply to? I think that is pretty easy. I thank my colleague for his patience.

Mr. LEVIN. My understanding is that the whole bill is not enrolled by the clerk. I am wondering whether the Senator is saying the bill, before it was disintegrated, was enrolled.

Mr. MCCAIN. It was passed by both Houses. So all I had to do was pick up the bill and say, ''See what was in it.'' That is not really difficult.

Mr. LEVIN. My question of my friend was, Was the bill that was passed ever enrolled?

Mr. MCCAIN. Portions were enrolled that have appropriations associated with them, obviously. But the bill as passed is available for reference to be looked at to find out where that applies to. In my view, that is far better than looking through bills. And I have spent hours in fine print, and we find out we are spending $2.5 million to study the effect on the ozone layer of flatulence in cows, and nobody knew it was in there until long after it was spent. That is what we are trying to stop here by having a single bill there that says exactly what that is being spent for. All you have to do is go back to the original legislation that was passed and you will know—the President will know whether or not to veto it.

Mr. LEVIN. My question is, When the Senator says the legislation that was passed, the legislation no longer exists, and would my friend agree that what he called ''the bill, as passed'' was never enrolled? Would he agree?

Mr. MCCAIN. I would agree that the relevant portions of the bill that were going to be signed into law were enrolled.

Mr. LEVIN. Would the Senator agree that the bill as passed—passed as one bill—was never enrolled as a bill?

Mr. MCCAIN. No. I agree that the relevant portions that are important to the taxpayers of America were enrolled in each separate bill. Again, I thank my friend from Michigan.

Mr. LEVIN. Mr. President, let us go back to what goes to the President. That goes to the President. It is without meaning. Nobody can look at this bill. This is now a bill. This is no longer a part of a bill. This is the bill. Nobody looking at that is going to be able to say what it means. One is going to have to go back to a bill, which no longer exists, and was never enrolled, to try to figure out what that means. Let me go into some more detail as to what the complications are when one does that.

This is another line that comes out of the bits and pieces of Commerce, State, Justice. This goes to the President. This is the bill. This is it. It is one of 572 bills that go to the President. It reads, after the italic and all of the other stuff—this is the total text:

. . . of which $6 million is available only for the acquisition of high performance computing capability.

If he signs that, that is the law of the land. That is a law. The $6 million is available only for this. That is a limitation on something. It is a limitation on the expenditure of funds.

What is it or what was it a part of?

Let us go back and look at what that was a part of. That was part of the Patent and Trademark Office appropriations, State, Commerce, Justice, which said the following, ''For necessary expenses of the Patent and Trademark Office provided by law, including defense of suits . . . $83 million to remain available until expended.''

That is another bill, by the way. That goes to the President just that way.

Now, if the President signs the $83 million, he then, if you look back at the bill that was passed but never enrolled, gets to this section: ''Of which $6 million is available only for the acquisition of high performance computing capability.''

That is a restriction on the money. That is a restriction on the $83 million. It is a limit. If this is vetoed, then he has greater use of the $83 million, not less.

This is an example where an appropriations bill's limitation, restriction, limits the use of money, does not enlarge it.

And so, now what? Now we have an appropriation of $83 million and if the President signs that, if he does not want to be limited in that way, he now has $83 million to spend without any limit. That is supposed to be an elimination of pork, to give the President $83 million unlimited instead of $83 million with a restriction on it?

And then the one that I discussed with the Senator from California. This is a bill that goes to the President. The total bill, total text: ''Of which not to exceed $11 million shall remain available until expended for furniture and furnishings related to new space alteration and construction projects; and''.

That is the text of a bill that goes to the President of the United States. The Senator from California said, ''Well, gee, the President should probably veto that. We do not need new furniture and furnishings.''

This says no more than $11 million, not to exceed $11 million. This is a restriction on how much money will be spent on furniture. This does not say that $11 million must be spent. It says not to exceed. It is exactly the opposite of how the Senator from California interpreted this. And that is the problem of giving this kind of gibberish to the President. There is no context.

In trying to give the President more power, we are creating an approach here which is going to be so cumbersome, so empty, such a void, so much of an unrecognizable mishmash, hundreds and hundreds and hundreds of bills to the President like this.

By the way, a lot of Governors have the line-item veto. A lot of States have the line-item veto. I do not think there is one State in the United States which has a separate enrollment approach. If there is, I would like to know about it.

This makes it impossible to know what you are signing. The bill that passed the legislature, in this case the Congress, no longer exists. It was not enrolled as a bill. It was split up, sliced like a salami, sliced into bits and

pieces, and the bits and pieces go to the President. And somehow or other, the President is going to figure out the context.

Well, I think we can do a lot better than that as a legislative process. That is not what this process is all about.

Again, this is not my summary here. This is not my test case. This is a real test case of the Senator from Indiana, who gave a real bill to an enrolling clerk and said, ''Apply the Dole approach, the separate enrollment approach, with these suballocations''—I emphasize the word ''suballocations,'' because that is what these are —''and apply it to a real bill.'' That is a test case, said to be successful. ''Punch a computer button, folks. It will solve our problems for us.'' It is going to create a lot more problems than we solve.

I have no doubt that we could craft 582 separate bills that actually put together the right allocations and suballocations and the right conditions so that it all made sense and the bills could then really be signed or vetoed independent of each other. They really could be bills. They would not just be like pieces of a puzzle thrown up into the air and then coming down in 582 pieces. We could do that. We could actually craft 582 bills. It would be a lot of work, but it is doable. But it is not doable this way.

It would probably take a lot of effort of the Appropriations staff working around the clock for weeks to do it. We would then all have to review it carefully to make sure that they really did it right. Are the right conditions attached to the right appropriations?

There is a name for that process. It is called legislation. That is what the name of that process is: legislation. It is something that we do as Members of Congress. It cannot be done by an enrolling clerk and it cannot be done by a computer.

So I say to my colleagues, wherever you are on this subject, whether you are sure you are for the substitute or not, get a copy of this separately enrolled document which the Senator from Indiana got produced from the enrolling clerk. Get a copy of it before you vote on the substitute before us, because whichever way you are voting on it, this is what we are going to be producing for ourselves if it passes. And we ought to be very careful.

It is worth taking the time to analyze this process and to make sure, in trying to give the President additional power, we are not creating total uncertainty, total confusion, total chaos and, I think, at the end of the game, probably, instead of reducing expenditures, perhaps increasing expenditures.

I yield the floor.

I took much more than the 10 minutes I said I would take at the end.

I thank my friend from Wisconsin for his patience.

Mr. McCAIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. McCAIN. Mr. President, I thank my friend from Michigan for a very intelligent and persuasive argument.

I am sure, as the Senator from Michigan mentioned, he knows that the legislation will be written differently. The process will change. In fact, this whole line-item veto is a change in the process.

The Senator from Michigan knows very well that in envisioning the separate enrollments taking place that there will be legislation written in a different fashion so that they will be clear. Even if they are not totally clear, the President of the United States can ask what it applies to before he signs or vetoes a bill.

Finally, I found it interesting that the President of the United States, in his comments today, did not find it a difficult task. In fact, he said, I believe, that he looked forward to having lots of signing pens and does not view with such alarm the process or obstacles that he may face as outlined by the Senator from Michigan.

I yield the floor.

Mr. FEINGOLD addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD. Mr. President, I thank the Chair, and I thank the managers.

I ask unanimous consent that the Simon amendment be temporarily set aside so I can offer two amendments.

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

AMENDMENT NO. 356

(Purpose: To amend the Congressional Budget and Impoundment Control Act of 1974 to limit consideration of nonemergency matters in emergency legislation)

Mr. FEINGOLD. Thank you, Mr. President. I send amendment numbered 356 to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Wisconsin [Mr. FEINGOLD] proposes an amendment numbered 356.

Mr. FEINGOLD. Mr. President, I ask unanimous consent further reading be dispensed with.

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

The amendment is as follows:

At the end of the pending amendment #374, add the following:

SEC. . TREATMENT OF EMERGENCY SPENDING.

(a) EMERGENCTY APPROPRIATIONS.—Section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by adding at the end the following new sentence: ''However, OMB shall not adjust any discretionary spending limit under this clause for any statute that designates appropriations as emergency requirements if that statute contains an appropriation for any other matter, event, or occurrence, but that statute may contain rescissions of budget authority.''.

(b) EMERGENCY LEGISLATION.—Section 252(e) of the Balanced Budget and Emergency Deficit Act of 1985 is amended by adding at the end the following new sentence: ''However, OMB shall not designate any such amounts of new budget authority, outlays, or receipts as emergency requirements in the report required under subsection (d) if that statute contains any other provisions that are not so designated, but that statute may contain provisions that reduce direct spending.''.

(c) NEW POINT OF ORDER.—Title IV of the Congressional Budget Act of 1974 is amended by adding at the end the following new section:

''POINT OF ORDER REGARDING EMERGENCIES

''SEC. 408. It shall not be in order in the House of Representatives or the Senate to consider any bill or joint resolution, or amendment thereto or conference report thereon, containing an emergency designation for purposes of section 251(b)(2)(D) or 252(e) of the Balanced Budget and Emergency Deficit Control Act of 1985 if it also provides an appropriation or direct spending for any other item or contains any other matter, but that bill or joint resolution, amendment, or conference report may contain rescissions of budget authority or reductions of direct spending, or that amendment may reduce amounts for that emergency.''.

(d) CONFORMING AMENDMENT.—The table of contents set forth in section 1(b) of the Congressional Budget and Impoundment Control Act of 1974 is amended by inserting after the item relating to section 407 the following new item:

''SEC. 408. Point of order regarding emergencies.''.

Mr. FEINGOLD. Thank you, Mr. President.

This amendment is based upon legislation, S. 289, the Emergency Spending Control Act of 1995, which I introduced on January 26 with the Senator from Arizona [Mr. MCCAIN], the manager of the bill before the Congress, as well as the Senator from Kansas [Mrs. KASSEBAUM], the Senator from California [Mrs. FEINSTEIN], and the Senator from Colorado [Mr. CAMPBELL].

This is a measure which had passed the other body in the 103d Congress by an overwhelming vote, and was designed to limit consideration of nonemergency matters in emergency legislation.

The Washington Post, in an editorial dated August 22, 1994, called this legislation ''a good idea.'' And it is a good idea.

The line-item veto legislation before Congress is intended to allow the President to remove pork-barrel spending from appropriations bills. This amendment is designed to prevent some of that pork from getting into appropriations bills in the first place.

Anyone who has watched the congressional appropriations process at any length knows exactly what we are talking about. An emergency appropriations bill begins moving through the legislative process and it is almost as if a red alert is sounded that a fast-moving appropriations vehicle is on the launch pad.

What happens, Mr. President, is staff begin drafting legislative language to insert some project that did not get funded in the regular appropriations bill or got left out in the conference

committee cutting floor, to insert into this bill.

In some cases, the proponents simply do not want to wait for a regular appropriations bill to present their arguments on behalf of an item. They just see this opportunity of an emergency bill to shortcut the whole process.

Mr. President, that is the way things have operated in Congress for many years. That is the way the Federal dollars have poured into special projects that might not otherwise be able to compete for limited Federal funds. That is the way that public confidence in our ability to achieve fiscal discipline has been eroded over the years.

Mr. President, it is time that we stop this abuse of the legislative process. Emergency spending bills should be limited to what they are supposed to be for—emergency spending. They should not become vehicles for an odd assortment of spending projects.

As the Washington Post said in its editorial last year, there should be no ''hitchhikers in an ambulance.'' Specifically, Mr. President, my amendment limits emergency spending bills solely to emergencies by establishing a new point of order against nonemergency matters other than rescissions of budget authority or reductions in direct spending, spending in any bill that contains an emergency bill or an amendment to an emergency measure or a conference report that contains an emergency measure.

Mr. President, as an additional enforcement mechanism this amendment adds further protection by prohibiting the Office of Management and Budget from adjusting the caps on discretionary spending or from adjusting the sequester process for direct spending and receipt measures for any emergency appropriations bill if the bill includes extraneous items other than rescissions of budget authority or reductions in direct spending.

Mr. President, though this proposal, like the underlying line-item veto measure, can help in the fight to reduce the deficit, I want to stress that process rules themselves do not solve the deficit problem. No rule can—whether it is a procedural rule of the Senate, a statute, or even a constitutional amendment.

The only way we can lower the deficit is through specific policy action. Still, Mr. President, the budget rules can help Members maintain the kind of discipline that is necessary to achieve our goals of deficit reduction.

Mr. President, I am delighted that the main coauthor of this amendment, or the bill that led to this amendment, is the manager on the majority side, Senator MCCAIN, who called me after the election and said, ''Aren't there some reforms items we can work on together?'' And this is one of the first we chose to work together on.

In general, Mr. President, the rules require that new spending—whether through direct spending, tax expenditures, or discretionary programs—be offset with spending cuts or revenue increases.

However, the rules provide for exceptions in the event of an emergency, and I think, rightly so. The deliberate review through the Federal budget process, weighing one priority against another, in some cases may not permit a timely response to an international crisis, a national disaster, or some other emergency.

In other words, Mr. President, we do not ask that earthquake victims find a funding source before we send them aid. Mr. President, the emergency exception to our budget rules designed to expedite a response to an urgent need has become something very different. It has become a loophole, abused by those trying to circumvent the scrutiny of the budget process.

These abuses have taken essentially two different forms: First, declaring some expenditure to be an emergency that is truly not an urgent or unexpected matter. A second approach is adding nonemergency matters to emergency legislation that is receiving the special accelerated consideration that appropriate emergency measures are supposed to get.

Mr. President, this amendment does not prevent every abuse of the emergency spending exceptions to our budget rule. In fact, it is only aimed at the second problem I just identified. That is, adding those nonemergency matters to emergency legislation. This proposal will not stop Congress and the President from declaring a matter to be an emergency thus funding it by adding it to the deficit when it is not truly urgent or unexpected.

I am not saying we should not do that. I am saying that is something we must address in the future.

In fact, we saw this recently as last year when the Department of Defense's continuing peacekeeping operation in Somalia, Bosnia, Iraq, and Haiti were declared emergencies, suddenly with the costs added to our Federal budget deficit.

In most cases, those operations had been ongoing for significant periods of time. They were not sudden, urgent, or unforeseen costs which would have justified circumventing budget rules.

I offered an amendment last year during floor consideration of H.R. 3759 to strike these questionable provisions. Although there were only a handful of votes for this amendment, a number of Members expressed concern about whether such spending was appropriately tied to the California earthquake emergency. The basic problem is that when these spending items are packaged together on a fast track, it is difficult to separate questionable items for fear of jeopardizing the entire measure which is supposed to respond to some very immediate human needs in places such as California after the earthquake.

Although this amendment does not address this particular problem, it is aimed at limiting the abuses surrounding emergency measures by helping to keep those measures clean of extraneous matters on which there is not even an amendment to make an actual emergency designation.

When the appropriations bill to provide relief for the Los Angeles earthquake was introduced last session it officially did four things: Provided $7.8 billion for the Los Angeles quake, $1.2 billion for the Department of Defense peacekeeping operations that I mentioned, $436 million for Midwest flood relief, and $315 million more for the 1989 California earthquake.

Mr. President, it went a lot further than that. By the time the Los Angeles earthquake bill became law it also provided $1.4 million to fight potato fungus, $2.3 million for FDA pay raises, $14.4 million for the National Park Service, $12.4 million for the Bureau of Indian Affairs, $10 million for a new Amtrak station in New York. I guess we got on the wrong side of the country on that one.

Mr. McCAIN. Will the Senator respond to a question?

Mr. FEINGOLD. I am happy to respond.

Mr. McCAIN. Is the Senator from Wisconsin saying the San Andreas fault extended all the way to New York City?

Mr. FEINGOLD. Apparently, under a new geographical approach used by the Senate on this bill. We are hoping to change that.

Mr. McCAIN. I thank the Senator.

Mr. FEINGOLD. To continue the litany, including the Amtrak station in New York, we not only had a geographical amazement with regard to our continent, we had $40 million for the space shuttle in the California earthquake bill, $20 million for a fingerprints lab, $500,000 for the U.S. Trade Representative travel office, and $5.2 million for the Bureau of Public Debt.

Mr. McCAIN. Does the Senator say $20 million for a fingerprints lab?

Mr. FEINGOLD. That is what I understand.

Mr. McCAIN. Where is the location of that fingerprints lab?

Mr. FEINGOLD. I guess more the eastern side of the United States than the west.

Mr. McCAIN. I thank the Senator.

Mr. FEINGOLD. Although nonemergency matters attached to emergency bills are still subject to spending caps established in the current budget resolution as long as total spending remains under those caps, as the Senator well knows, these unrelated spending matters are not required to be offset with spending cuts.

In the case of the Los Angeles earthquake bill because the caps have been reached, the new spending was offset by rescission, but in my view those rescissions might otherwise have been used for deficit reduction. We lost an opportunity for deficit reduction of those offsets because they had to be

used to offset the items I have just listed that did not belong in the California earthquake bill.

Moreover, by using emergency appropriations bills as a vehicle these extraneous proposals avoid the examination through which legislative proposals must usually go to justify Federal spending.

If there is truly a need to shift funds to these programs, an alternative vehicle—a regular supplemental appropriations bill, not an emergency spending bill—is what should be used.

Mr. President, the amendment I am offering today will end that kind of misuse of the emergency appropriations process. It is a reasonable first step toward cleaning up our emergency appropriations process.

Adding nonemergency extraneous matters to emergency appropriations not only is an attempt to avoid legitimate scrutiny of our normal budget process, it can also jeopardize our ability to actually provide relief to those who are really suffering from a disaster to which we are trying to respond.

Just as importantly, adding superfluous material to emergency appropriations bills degrades those very budget rules on which we rely to impose fiscal discipline. Mr. President, I think that only encourages further erosion of our efforts to reduce the deficit.

This amendment that I am offering today to the line-item veto proposal passed the other body in the last Congress with overwhelming bipartisan support, first as a substitute amendment on a vote of 322 to 99, and then as amended by a vote of 406 to 6.

So I urge my colleagues to support this effort to end this abusive practice. As I indicated in my opening remarks, this amendment is both consistent with and complementary to the underlying bill. It is an attempt to impose a prior restraint on Congress so that this kind of spending is not added in the first place to an emergency spending bill.

This amendment is an attempt to make a fundamental change in the way Congress has done business in the past. Slipping pork projects into appropriations bills may at one time have been the hallmark of a successful legislator, but I hope in this new era of fiscal constraint it is time that this practice ended. I hope that this amendment will receive the broad bipartisan support that it surely deserves.

I wish to conclude this part of my remarks by again thanking the Senator from Arizona for his work with me on this and for his rather effective questioning during my presentation.

Mr. MCCAIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, I congratulate the Senator from Wisconsin on this amendment. I think it is a very important one. I say with some modesty, Mr. President, I believe that I have come over the years to have a degree of expertise on pork-barrel spending. I have found over the years that perhaps one of the most egregious abuses of the legislative process is the issue which the amendment of the Senator from Wisconsin addresses. That is, when we have a genuine emergency which requires near immediate action because it is clear that there are American citizens who need help, and it is our responsibility as a Congress to cooperate with the executive branch and provide that much-needed emergency relief—in the case that the Senator from Wisconsin was describing, the terrible and tragic earthquakes in California—all too often we discover it is used as a vehicle for pet projects, appropriations which have no relation to the emergency, bear no relation to the emergency, and in fact are an egregious abuse and misuse of the taxpayers' dollars.

I would suggest, if the Senator from Wisconsin took the time, he and I could go back through virtually every emergency appropriations bill over the past 10 or 15 years and would find similar abuses, some of them a bit amusing.

As I mentioned, San Andreas fault stretched all the way to New York City in one case and, of course, fingerprint labs would probably not have been appropriated in that fashion, at least without some discussion and debate.

But the point is that rather than look back and criticize, as I know neither the Senator from Wisconsin nor I wish to do, it is time to look forward, and that is to enact the amendment of the Senator from Wisconsin to prevent it in the future, so there will not be any temptation involved.

I thank the Senator from Wisconsin not only on this bill but a variety of other issues where he has worked on legislation which would restore, to some degree anyway, the image that the American people want to have of this body, one that is responsible with their tax dollars, behaves responsibly, and is not going to act in a fashion that makes them lose their confidence in their ability to trust our Government.

Mr. President, I suggest to the Senator from Wisconsin that on this amendment it is possible it may be accepted. I have obviously some objections to a voice vote at this time. But I know that the Senator from Wisconsin may want the yeas and yeas, and that is perfectly acceptable. But I might suggest that he wait until tomorrow to ask for the yeas and nays in case it happens to be acceptable. It may save time of this body.

So I assure the Senator from Wisconsin, if it is objected to, I would also make sure that the yeas and nays are ordered and it not be disposed of on a voice vote without his permission.

Mr. President, I yield the floor.

Mr. FEINGOLD. Mr. President, I thank the Senator from Arizona. That sounds like a very reasonable approach to this amendment. I hope it can be accepted.

I wish to again thank him for his willingness and effort to work on a bipartisan basis, and also for his personal efforts and the efforts of his staff over the years to identify those pork projects. I think it is one of the reasons that these kinds of amendments have a chance of prevailing in this environment.

Mr. President, I ask unanimous consent to set aside my first amendment so that I can call up my second amendment.

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

AMENDMENT NO. 362 TO AMENDMENT NO. 347

(Purpose: To express the sense of the Senate regarding deficit reduction and tax cuts)

Mr. FEINGOLD. Mr. President, I have a second amendment No. 362 pending at the desk that I call up and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Wisconsin [Mr. FEINGOLD], for himself and Mr. SIMON, proposes an amendment numbered 362 to amendment No. 347.

Mr. FEINGOLD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

At the end of the pending amendment No. 347, add the following:

SEC. . SENSE OF THE SENATE REGARDING DEFICIT REDUCTION AND TAX CUTS.

The Senate finds that—

(1) the Federal budget according to the most recent estimates of the Congressional Budget Office continues to be in deficit in excess of $190 billion;

(2) continuing annual Federal budget deficits add to the Federal debt which soon is projected to exceed $5 trillion;

(3) continuing Federal budget deficits and growing Federal debt reduce savings and capital formation;

(4) continuing Federal budget deficits contribute to a higher level of interest rates than would otherwise occur, raising capital costs and curtailing total investment;

(5) continuing Federal budget deficits also contribute to significant trade deficits and dependence on foreign capital;

(6) the Federal debt that results from persistent Federal deficits transfers a potentially crushing burden to future generations, making their living standards lower than they otherwise would have been;

(7) efforts to reduce the Federal deficit should be among the highest economic priorities of the 104th Congress;

(8) enacting across-the-board or so-called middle class tax cut measures could impede efforts during the 104th Congress to significantly reduce the Federal deficit, and;

(9) it is the Sense of the Senate that reducing the Federal deficit should be one of the Nation's highest priorities, that enacting an across-the-board or so-called middle class tax cut during the 104th Congress would hinder efforts to reduce the Federal deficit.

Mr. FEINGOLD. I thank the Chair. I also ask unanimous consent that Senator SIMON of Illinois be added as a cosponsor to this sense-of-the-Senate amendment having to do with tax cuts.

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

Mr. FEINGOLD. I thank the Chair.

I rise now to urge my colleagues to support the amendment that I have offered with the Senator from Arkansas [Mr. BUMPERS] and the Senator from Illinois [Mr. SIMON], expressing the sense of the Senate that reducing the Federal deficit should be one of the Nation's highest priorities, and that enacting an across-the-board, so-called middle-class tax cut during the 104th Congress would actually hinder efforts to reduce the Federal deficit.

I have argued against broad tax cuts on a number of occasions, and I am especially pleased to be joined by the Senator from Arkansas and the Senator from Illinois in this effort. And I might note that the manager of the bill on the minority side, Senator EXON, was one of the first people to identify the absurdity in the rush to tax cuts. He has been a very key leader on this issue, both in his own right and as the ranking member of the Budget Committee.

All of these Senators are passionate advocates for deficit reduction. I am also pleased to see that many others share our concern that broad tax cuts will impede our efforts to reduce the deficit.

Today's Washington Post featured a story that included a number of statements from colleagues in which they expressed their concerns about broad tax cuts at this time. The ranking member of the Finance Committee, Mr. MOYNIHAN, of New York, was quoted as saying that deficit reduction was the issue and that tax cuts were out of order. With his usual eloquence, the senior Senator from New York has nicely summarized the matter in two short statements. Mr. President, deficit reduction is the issue and tax cuts are out of order.

Mr. President, the underlying measure before us proposes to enhance the ability of the President to pare down spending by exercising something like a line-item veto authority. In great part, this measure is before us because of those continued budget deficits. Although we certainly will not balance the budget simply by granting the President some form of a line-item veto authority, many of us do feel that such authority can in a small way help alleviate some of the pressure on the deficit.

Mr. President, the amount of pork that the President can trim from our budget pales in comparison to the effect a broad middle-class tax cut will have on our deficit or that our resistance to such a tax cut could have on reducing the deficit.

The President's budget proposes $63 billion in tax cuts. If the only change we made to that budget was to eliminate those tax cuts, we would save not only that $63 billion but another $9 billion in interest costs for a total savings of $72 billion in additional deficit reduction. In fiscal year 2000 alone, we could lower the deficit by $24 billion more than is projected, achieving nearly $4 billion in deficit reduction just from interest savings.

Mr. President, forgoing the tax cuts imposed by the Contract With America produces even more telling results. If we just could resist the tax cuts called for in the Contract With America, we would save this country over $200 billion and about $20 billion in interest costs alone.

Assuming those tax cuts were offset with spending cuts, doing nothing more to the budget than forgoing those proposed tax cuts could reduce the deficit by $80 billion in fiscal year 2000 and we would be approaching an annual deficit of $114 billion.

Mr. President, at this point I am delighted to ask unanimous consent that the senior Senator from Nebraska, Senator EXON, also be added as an original cosponsor of the sense-of-the-Senate resolution.

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

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. Mr. President, I want to compliment my friend and colleague from the State of Wisconsin. Let me just make a brief statement in support of the amendment he is offering. The numbers speak for themselves, I suggest. The Joint Committee on Taxation has estimated that the tax cuts in the so-called Contract With America will worsen the deficit by over $700 billion over the next 10 years. Added to that the Congressional Budget Office has estimated that we will need to cut spending by $1.2 trillion to balance the budget over the next 7 years. What this means is that if we want to cut taxes as proposed in the Contract With America, we will have to make some pretty dramatic additional cuts in spending.

My position is that I am all for tax cuts but we have to cut the deficit first, then consider what we can do, if anything, about tax cuts.

I thank my friend from Wisconsin. I think it is a good amendment.

The PRESIDING OFFICER. The Senator from Wisconsin is recognized.

Mr. FEINGOLD. Mr. President, I thank the Senator from Nebraska. He is the perfect person to be describing the specifics of what this does about reducing our Federal deficit. Nobody knows the issue better. I can only say my only regret is that the Senator has chosen not to seek reelection. I think his being here in the next 6 years would be one of the keys to eliminating this Federal deficit, but we will certainly be delighted to have the benefit of his great skills in the area of deficit reduction over the next several months.

Does the Senator have a question?

Mr. MCCAIN. I thought the Senator was finished. I am sorry.

Mr. FEINGOLD. I will continue just a brief time longer.

Mr. President, let me take a couple of other points on this matter of the sense-of-the-Senate resolution.

Some proponents of these tax cuts argue that they have to be a high priority because the American people are insisting on them. The Senator from Louisiana [Mr. BREAUX] a distinguished member of our tax-writing committee, had a very good response to this contention.

In today's Washington Post he was quoted as saying, ''We do not have a lot of people marching on Washington asking for tax cuts.''

The Senator from Louisiana hit the nail on the head. There is no great demand for tax cuts, but there is widespread support for us to cut spending and to use those savings to reduce the deficit.

I have been speaking out on this issue for several months now, basically since November 8 when I first saw the Republican contract and then after I saw the President's proposal on December 15. I took issue with the President's proposed tax cuts last December on the day he announced them, and I did so because I felt tax cuts were just not fiscally responsible right now.

I concede that I would be tempted to make this argument even without strong support from my constituents. Sometimes that is part of this job. The voters elect you to make some tough calls, not to constantly stick out your finger to test the political winds before every vote. On this issue, the people of Wisconsin have been overwhelmingly supportive. They realize what they would get back in lower taxes—a meaningful amount to many people—was simply not worth the devastation it would cause our Federal budget. In just the last few weeks, the phone calls and letters to my office have been running 7 to 1 in favor of reducing the deficit over cutting taxes. Here are just a few of the things they have been saying.

A gentleman from Janesville wrote:

> As popular as a ''middle class tax cut'' may be, this is not the time for such action. . . . I urge you to keep your eye on the prize. Concentrate your efforts on balancing the budget and then, begin to pay down our national debt. Please, do not make this process more difficult by returning a pittance to this over taxed citizen.

A woman from Prairie du Sac wrote:

> . . . any tax cut at this time would be pure folly. . . . Reducing the deficit must be the number one priority of this Congress now and for many years to come. Our country's economy is dependent on this. . . .

And a gentleman from Minong, just a few miles from the Minnesota border, wrote this to me:

> It's not that I don't believe the middle class deserve a tax cut. I just don't think we can afford to cut taxes when we can't cover our budget right now. . . . When we are out of debt, then the time has come to grant tax cuts. Not before.

My office has received hundreds of calls and letters that are similar to these.

And, though I do not presume to speak for the constituents of other Members, I think this view is widely shared outside Wisconsin as well.

A USA Today/CNN poll published on December 20 found that 70 percent of those polled said if Congress is able to cut spending, then reducing the deficit is a higher priority than tax cuts.

A Washington Post-ABC News poll from January 6 showed that people favored deficit reduction over tax cuts by a 3-to-2 margin.

And in a column in today's Washington Post, James Glassman notes that an NBC-Wall Street Journal poll found only 13 percent of respondents said taxes were the ''most important economic issue facing the country'' while nearly three times as many said it was the deficit.

Mr. President, while polling often can be one-dimensional measures of opinion, there was nothing one-dimensional about the response to the field hearings of the House Budget Committee on this matter.

The crowds that attended those hearings showed clear, vocal majorities supporting deficit reduction over tax cuts.

Mr. President, it is frustrating to hear constituents, who could certainly use the money, urge Congress to make deficit reduction a higher priority than tax cuts, and then watch the rush to see who can propose the bigger tax cut.

In his column, Mr. Glassman calls upon Republicans to immediately shelve their plans to cut taxes this year and instead devote all their energy to cutting spending.

I will add that I think both Democrats and Republicans should shelve plans to cut taxes.

Let us focus on the task of identifying spending that can be cut, and then use the savings we achieve from those cuts to reduce the deficit.

Mr. President, I ask unanimous consent that copies of the column by James Glassman, and the story headlined ''Senate GOP Prepares to Invalidate Tax Provisions of House 'Contract,'" both from today's Washington Post, be included in the RECORD at this point.

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

[From the Washington Post, Mar. 21, 1995]

SHELVE THE TAX CUTS

(By James K. Glassman)

Republicans should immediately shelve their plans to cut taxes this year and instead devote all their energy to cutting spending.

Don't get me wrong. I think taxes are too high. They now consume a bigger share of the average family's expenses than housing, food, clothing and medical costs combined. High taxes are a drag on economic growth and a license for government to increase wasteful spending. And our current tax system bears much of the blame for the shamefully low U.S. savings rate.

For these reasons, tax reform is a necessity, and a flat tax or a consumption tax is almost certainly the best answer. But such changes can't possibly be approved in 1995—or even 1996. Americans need a full-scale debate, preferably during a presidential campaign.

Instead of building support for major reform later, the Republican strategy this year is to enact a typical Christmas-tree tax bill, festooned with baubles for businesses, investors, retirees and middle-class families. President Clinton introduced his own, smaller tax cut plan in February.

Tax relief is normally a crowd pleaser, but not today. On fiscal matters, Americans seem to have just one thought in mind: Balance the budget. Only 13 percent of respondents to an NBC-Wall Street Journal poll said taxes were the ''most important economic issue facing the country'' while nearly three times as many said it was the deficit.

''They aren't thinking taxes now,'' says Kellyanne Fitzpatrick of the Luntz Research Cos. of Arlington, the firm that helped House GOP leaders draw up the Contract With America. ''People are vehement about having spending cuts first.''

Politicians are at last starting to notice how the public is ordering its priorities. On Capitol Hill last week, I found no members who were truly enthusiastic about tax cuts. Economists aren't clamoring for them either. With gross domestic product rising nicely, the cuts aren't needed as a short-term economic stimulus; on the contrary, they'll probably boost inflation.

So the logical conclusion is to forget taxes entirely for this year. Unfortunately, the Contract has a mind of its own.

Last week, the tax-relief bill passed the Ways and Means Committee on a party-line vote. It includes a reduction in the capital-gains rate, a tax credit of $500 per child for families earning up to $200,000, a revival of IRAs, a modest credit to make up for the ''marriage penalty'' on two-earner couples and a few other goodies. Over the next five years, the changes in the bill will make the deficit a total of about $190 billion larger than current projections.

The bill is scheduled for a vote in the House next week, and already dozens of Republicans are asking House Speaker Newt Gingrich to scale it back. They know that, based on projections by the Congressional Budget Office, we can allow federal spending to rise another $350 billion between now and 2002 and still balance the budget—but only if we refrain from reducing tax revenue.

If the tax bill passes, it goes next to the Senate Finance Committee, whose chairman, Sen. Bob Packwood (R–Ore.), has indicated that his panel would give it a frosty reception. Packwood is a big thinker who almost certainly would prefer reforming the whole tax system—but only after spending is cut, a step he believes will lead to lower interest rates as the government's borrowing requirements fall.

Either a consumption tax or a flat tax would remedy two of the greatest problems of the current system—that it's too complicated and that it imposes marginal rates so high they discourage investing. The flat tax also has an amazing appeal that many politicians have overlooked: Americans at all income levels believe it's more fair than what we have now; they suspect that fat cats use loopholes to avoid their fair share.

Under the flat tax proposed by House Majority Leader Dick Armey (R–Tex.) earlier this year, a married couple making less than $26,200 would pay no federal income tax. Beyond that, the rate would be 17 percent on all income, with no deductions allowed.

A flat tax could easily be linked by law to a balanced-budget requirement: At the start of each year, Congress would have to set a single rate (whether it's 17, 18 or 22 percent) that would bring in enough revenues to cover federal expenses. That would be as powerful a deterrent to overtaxing and overspending as any constitutional amendment.

Fitzpatrick says that Luntz has conducted polling nationwide and focus groups in three cities, and the results are clear: ''The flat tax is a big home run for everybody.''

She added, however, that Americans are so intent on balancing the budget that ''some people in the focus groups actually complained that they themselves would pay zero under a flat tax. They want to contribute something to balancing the budget.''

Gingrich would be nuts to ignore that kind of sentiment. He should postpone the tax-relief vote indefinitely, concentrate on spending cuts and lay the groundwork for Republicans to run on a flat-tax platform next year—unless Clinton is cleaver enough to beat them to it.

[From the Washington Post, Mar. 21, 1995]

SENATE GOP PREPARES TO INVALIDATE TAX PROVISIONS OF HOUSE 'CONTRACT'

(By Eric Pianin and Dan Morgan)

Senate Republicans have begun moving on several tracks to rearrange key tax and spending provisions of the House GOP's ''Contract With America.''

Senate Finance Committee Republicans emerged from a weekend retreat with their Democratic colleagues resolved to block passage of the House GOP's $188 billion tax cut package and to put off action on tax reliefs proposals until Congress completes work on the major deficit reduction this summer.

Finance Committee Chairman Bob Packwood (R–Ore.) said yesterday that Congress would reduce the deficit by ''an immense magnitudes beyond what people believe is possible,'' but that major tax reductions along the lines advocated by House Republicans were not in the cards.

''To the extent that we can both reduce the deficit to zero over seven years and have tax cuts, so much the better,'' Packwood said in a speech to the national Association of Manufacturers. ''But I don't thing we should put the priority of tax cuts first and then reducing spending later.''

House Republican leaders plan to complete work on their tax package—including both a $500-per-child tax credit for families making up to $200,000 a year and a sharp reduction in the capital gains tax—before Congress leaves for the Easter recess. Nearly 100 Republicans plan to deliver a letter to the House GOP leadership today, urging that the credit be targeted to families making a maximum of $95,000 a year.

However, an aide to House Speaker Newt Gingrich (R–Ga.) said such a change is unlikely.

Sen. Daniel Patrick Moynihan (N.Y.), the ranking Democrat on the Finance Committee, who attended the weekend retreat, said Democrats and Republicans generally agreed that ''deficit reduction was the issue'' and that ''tax cuts were out of order.''

Sen. John Breaux (D–La.), another committee member at the retreat, said, ''We do not have a lot of people marching on Washington asking for tax cuts.''

But committee member Sen. Charles E. Grassley (R–Iowa) predicted that some ''modest'' tax relief would emerge from Congress later this year to satisfy the demands of Sen. Phil Gramm (Tex.), a Republican presidential candidate, and other conservatives sympathetic to the House tax proposals.

''They [the tax cuts] don't have to be as great as the House wants and they must be oriented toward the family,'' Grassley said.

The Senate also may put its imprint on a recision bill passed last week by the House that would pare $17.1 billion from spending that had been approved in the current budget. Cumulatively, the bill would reduce congressional ability to make spending commitments by $40 billion to $50 billion over five years.

The House legislation exempted defense and military construction accounts, but Sen. Mark O. Hatfield (R–Ore.), who chairs the Senate Appropriations Committee, said yesterday that he has directed that those accounts be screened for possible cuts as well.

Some Democrats and Republicans say deficit reduction should take precedence over everything, including tax cuts and increases in Pentagon spending, or the spending cuts could be branded as imprudent and unfair.

The liberal-leaning Center on Budget and Policy Priorities concluded that 63 percent of the House cuts are in programs for low-income families and individuals. Hatfield suggested yesterday in an interview that military spending could not be ''disconnected'' from the deficit problem any more than the tax cut issue could be.

''They're asking people to make sacrifices at the same time they're saying military spending must escalate,'' he said.

On Sunday, House Budget Committee Chairman John R. Kasich (R–Ohio) said House Republican leaders had agreed to freeze defense spending at the current $270 billion for at least the next five years, rather than increasing it.

Hatfield, who was attacked by senators within his own party for casting the lone Republican vote against the balanced budget amendment, indicated that the size of the Senate's spending recision package would be in the same ''ballpark'' as the House-passed version, but with different spending cuts.

In addition to possibly tapping defense and military contruction, Hatfield said the Appropriations transportation subcommittee that he chairs probably would make deeper cuts than the House did.

''We'll never balance the budget on the baseline of discretionary spending,'' Hatfield said, referring to the one-third of the total budget that does not cover interest on the debt or Social Security, Medicare and other such ''entitlement'' programs.

Speaking to reporters after his speech to the manufacturers association, Packwood said that he agreed with Republican budget committee leaders in the House and Senate that the budget could be balanced by 2002 merely by slowing the growth of spending by $1 trillion or more, but that ''nothing is sacred,'' including Social Security and other entitlement programs.

''I have said all along Social Security should be on the table,'' he said, but ''we haven't crossed that yet.'' Packwood said that while cuts in Social Security benefits have been ruled out by Republican leaders, his committee would consider trying to eliminate a bias in a formula that overstates cost-of-living adjustments in Social Security payments.

Mr. FEINGOLD. Mr. President, I understand the majority leader intends to stack votes on amendments offered tonight for some time to be determined and I ask unanimous consent, on the amendment I just proposed, it be in order to ask for the yeas and nays.

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

Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. FEINGOLD. Mr. President, I will defer the request for the yeas and nays on the first amendment in response to the suggestion of the manager, the Senator from Arizona. I thank both the managers for their kindness and cooperation in my opportunity to offer these amendments.

I yield the floor.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. Mr. President, I ask for the regular order with regard to the Simon amendment No. 393.

Mr. MCCAIN. Mr. President, I object.

Mr. President, I had not finished with the debate on the amendment.

Mr. EXON. Mr. President, I withdraw the request.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, I just want to briefly respond to the amendment of the Senator from Wisconsin. I know there will be objection on this side, as he knows. The so-called Contract With America was clear on the point that middle-income Americans—middle-class Americans—deserve a tax cut. I understand the Senator from Wisconsin's zeal to balance the budget. I appreciate it. I believe I share it.

I would like to point out that in 1950, a median-income family of four in America—that is a man, woman, and two children—sent $1 out of $50 of their income to Washington, DC, in 1950. In 1990 that same family of four, median-income American family, sends $1 out of every $4 to Washington, DC, in the form of taxes. Then, when you put on State and local taxes, they rapidly jump up into the 40 percent bracket. If we do not add another entitlement program between now and the turn of the century, if we do not add one penny to Federal spending, that number will be $1 out of every $3.

I say to my friend from Wisconsin, we cannot afford to lay this burden on middle-income Americans or we will see the disappearance of middle-class America. They are staggering under a crushing tax burden. I believe it makes it much more difficult to both reduce the deficit and enact tax cuts, but I, frankly—maybe the Senator from Louisiana has not heard of people marching on Washington, saying ''cut taxes.'' Around April 15 there will be people marching on my office and calling my office when they file their income taxes again this year and find out that, again, their taxes have gone up and it will now require, I believe the date is May 15, to which they will work in order to pay their State and local and Federal taxes before they start earning a penny for themselves and their families.

I understand very well what this $4.8 trillion debt, now projected by 1996 to be a $5.2 trillion debt, can do to America. But I also know what a crushing tax burden means to the average American family which is bearing an enormous burden and that burden has contributed significantly to the most startling and, in my view, alarming polling number, polling statistic, that we got out of the 1994 elections. That is that the majority of Americans who voted in the 1994 election do not believe that their children will be better off than they are. They believe that for a variety of reasons, I say to my friend from Wisconsin. But one of the reasons they say that is that they do not believe they will have enough income to provide for their children's futures.

The essence of the American dream, as most of us know it, is that people came to this country, worked hard, put in sweat and blood and tears in order to ensure the future generations—their children—would have a better opportunity than they.

I say to my friend from Wisconsin, that is not the case anymore. One of the reasons for that is because they see so many of their hard-earned dollars going to Washington and to State and local taxes, so they do not believe they will be able to afford to pay for their medical bills, their children's education, and the other necessities that are required for people, not only for the rest of their lives but to ensure the future of their children.

But I do not disagree with the Senator from Wisconsin about the daunting task we face when we say we are both going to reduce the deficit and the debt and at the same time relieve the tax burden on middle-income Americans.

Mr. President, I apologize for interrupting the Senator from Nebraska. I just wanted to respond to the Senator from Wisconsin on this amendment. I yield the floor.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD. Mr. President, I will be very brief. I had an opportunity to speak, but this may be the only debate on this amendment the way this is structured.

Let me make two quick points. First of all, I am pleased to note this is a nonpartisan issue. Everyone watching should be aware things are not breaking down on a partisan basis. There is a disagreement on the Republican side and there is a disagreement on the Democrat side whether we can go with tax cuts. I think it is heartening for people to realize the Senate can function in this way and we can resolve the issue on other than a Democrat or Republican basis, and I hope that is the way this tax cut debate will continue.

The other point I would just make in response to the Senator from Arizona is that I am also willing to examine the impact that this issue of tax cuts and deficit reduction has on the bottom line for American families. I had a meeting yesterday in Wisconsin with a business advisory group, and the business men and women there were absolutely convinced that doing the tax cut, rather than using the money for deficit reduction, would mean that the actual budgetary picture of those individual families would be worse with the tax cut, for two reasons. One, they believed if we do not reduce the deficit as dramatically as we can right now, in other words not using the tax cuts, that the interest we have to pay on the Federal debt will inevitably cause them to have less money of their own because so much of our national economy will be going toward paying the

horrible burden that the interest on the debt already causes.

The other point was very specific. Their belief was that the increase in interest rate that will occur because of the failure to deal with the deficit, and possibly because of the tax cuts, could generate an inflationary effect and would mean a greater increase in their costs monthly in the form of interest on car payments and home payments.

So I think the Senator's analysis is a fair approach, not just the macroeconomic one of what happens to the whole society and our deficit, but the macroeconomic issue of what happens to those individual families. I hope, as we go on this debate, that we will look at it from both points of view. Both are central to this issue.

I thank the Chair. I yield the floor.

Mr. EXON. Mr. President, what is the pending question?

The PRESIDING OFFICER. The pending question is amendment 393 offered by the Senator from Illinois.

AMENDMENT NO. 393, AS MODIFIED, TO AMENDMENT NO. 347

(Purpose: To provide for expedited judicial review)

Mr. EXON. Mr. President, the Senator from Illinois and the Senator from Arizona have been working on the language of the Senator's amendment on judicial review that was debated briefly an hour or so ago. Senator SIMON has given me language that he believes addresses the concerns of the Senator from Arizona regarding severability. Senator SIMON asked me to seek to modify his amendment to reflect the changes.

So, Mr. President, on behalf of the Senator from Illinois, I send a modification of his amendment numbered 393 to the desk, and I ask that it be so modified.

The PRESIDING OFFICER. Is there objection? The amendment is so modified.

The amendment (No. 393), as modified, to amendment No. 347, is as follows:

At the appropriate place in the bill, insert the following:

SEC. . JUDICIAL REVIEW.

(a) EXPEDITED REVIEW.—

(1) Any Member of Congress may bring an action, in the United States District Court for the District of Columbia, for declaratory judgment and injunctive relief on the ground that a provision of this Act violates the Constitution.

(2) A copy of any complaint in an action brought under paragraph (1) shall be promptly delivered to the Secretary of the Senate and the Clerk of the House of Representatives, and each House of Congress shall have the right to intervene in such action.

(3) Any action brought under paragraph (1) shall be heard and determined by a three-judge court in accordance with section 2284 of title 28, United States Code.

Nothing in this section or in any other law shall infringe upon the right of the House of Representatives or the Senate to intervene in an action brought under paragraph (1) without the necessity of adopting a resolution to authorize such intervention.

(b) APPEAL TO SUPREME COURT.—

Notwithstanding any other provisions of law, any order of the United States District Court for the District of Columbia which is issued pursuant to an action brought under paragraph (1) of subsection (a) shall be reviewable by appeal directly to the Supreme Court of the United States. Any such appeal shall be taken by a notice of appeal filed within 10 days after such order is entered; and the jurisdictional statement shall be filed within 30 days after such order is entered. No stay of an order issued pursuant to an action brought under paragraph (1) of subsection (a) shall be issued by a single Justice of the Supreme Court.

(c) EXPEDITED CONSIDERATION.—

It shall be the duty of the District Court for the District of Columbia and the Supreme Court of the United States to advance on the docket and to expedite to the greatest possible extent the disposition of any matter brought under subsection (a).

(d) SEVERABILITY.—

If any provision of this Act, or the application of such provision to any person or circumstance is held unconstitutional, the remainder of this Act and the application of the provisions of such Act to any person or circumstance shall not be affected thereby.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from Illinois, as modified.

The amendment (No. 393), as modified, was agreed to.

Mr. EXON. Mr. President, I ask unanimous consent that the pending amendment be temporarily set aside.

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

AMENDMENT NO. 402 TO AMENDMENT NO. 347

(Purpose: To provide a process to ensure that savings from rescission bills be used for deficit reduction)

Mr. EXON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Nebraska [Mr. EXON] proposes an amendment numbered 402 to amendment No. 347.

Mr. EXON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

At the end of the matters proposed to be inserted, insert the following:

SEC. .

(a) Not later than 45 days of continuous session after the President vetoes an appropriations measure or an authorization measure, the President shall—

(1) with respect to appropriations measures, reduce the discretionary spending limits under section 601 of the Congressional Budget Act of 1974 for the budget year and each out year by the amount by which the measure would have increased the deficit in each respective year;

(2) with respect to a repeal of direct spending, or a targeted tax benefit, reduce the balances for the budget year and each outyear under section 252(b) of the Balanced Budget and Emergency Deficit Control Act of 1985 by the amount by which the measure would have increased the deficit in each respective year;

(b) EXCEPTIONS.

(1) This section shall not apply if the vetoed appropriations measure or authorization measure becomes law, over the objections of the President, before the President orders the reduction required by subsections (a)(1) or (a)(2).

(2) If the vetoed appropriations measure or authorization measure becomes law, over the objections of the President after the President has ordered the reductions required by subsections (a)(1) or (a)(2), then the President shall restore the discretionary spending limits under section 601 of the Congressional Budget Act of 1974 or the balances under section 252(b) of the Balanced Budget and Emergency Deficit Control Act of 1985 to reflect the positions existing before the reduction ordered by the President in compliance with subsection (a).

Mr. EXON. Mr. President, let me just briefly address this because I had talked briefly about it earlier. This amendment would add to the bill what is called a lock box to insure that any and all savings achieved as a result of the line-item veto under the bill would go to deficit reduction. This is simply a truth-in-advertising amendment. All this amendment does is to ensure that, if you promise deficit reduction in a veto, you actually have to deliver deficit reduction at the end of the day.

I have nothing further on the amendment at the present time. I assume we will have, if it is not accepted, probably a vote on it on tomorrow.

Mr. MCCAIN. Mr. President, I am in support of the concept of this amendment. I think clearly any savings should go to reduce the deficit. There are objections on this side of the aisle at this time.

So I withhold approval. But hopefully some of those objections can be satisfied before being voted on tomorrow.

I agree with the Senator from Nebraska that any savings should go to deficit reduction rather than expenditures on other Government programs.

Mr. EXON. Mr. President, I thank my colleague from Arizona.

Mr. MCCAIN. Mr. President, it has been a long day for the Senator from Nebraska. I will try to be relatively brief. I do not believe there are any more amendments proposed for tonight.

I would just like to make some additional comments and then proceed to wrap up, since we will be beginning at the hour of 9:30 in the morning, it is my understanding.

Mr. President, I wanted to discuss this issue that has been heavily argued today as far as the constitutionality of separate enrollment. Earlier today, he included in the RECORD a statement from Mr. Johnny Killiam, who is the senior specialist on American constitutional law in the Congressional Research Service. The subject of this memorandum is the separate enrollment bill and the Constitution. I am not going to read the entire thing. I would like to again repeat the concluding paragraph of his 12-page dissertation on the constitutionality of separate enrollment.

He says:

In conclusion, we have argued that the deeming procedure may present a political question unsuited for judicial review, and, thus, that Congress would not be subject to judicial review. We have considered, on the other hand, that the courts may find that they are not precluded from exercising authority to review this proposal. If the proposal is reviewed by the court, and even if it is not, we have presented an argument leading to sustaining the deeming procedure as not in violation of the principle that a bill in order to become law must be passed in identical versions by the House of Representatives and the Senate. Because of the lack of available precedent, we cannot argue that any of the three versions of the argument is indisputably correct. Indeed, there are questions about all three. In the end, Congress must exercise a constitutional judgment when deciding on passage of the proposal.

What Mr. Killiam has said—and it is a very in-depth and in some ways esoteric discussion—various cases have appeared before the Supreme Court, and he argues at the end of his dissertation that there are arguments that lead in favor of the constitutionality of separate enrollment, but it could be subject to judicial review.

And his last sentence, I think, is probably the most operative, where he said:

In the end, Congress must exercise a constitutional judgment when deciding on passage of the proposal.

I also say to those who are concerned about the constitutionality of this issue, the Simon amendment—and a similar amendment was adopted by the House of Representatives—will call for expedited judicial review. We will find out. I am not using that as an argument for somebody who feels there is a clear constitutionality problem here and believes it is unconstitutional to therefore vote for this legislation just because it is going to receive judicial review. But I am saying to those who may have some doubts that this issue will be resolved and resolved in a very short period of time.

I also want to take a few minutes to quote from Judith Best, who has been a well-known expert on this particular issue. It is a very short quote. This part of her dissertation, entitled ''The Constitutional Objection.''

The objection is that the proposal is unconstitutional—

Meaning separate enrollment is unconstitutional.

because it would change the Constitution, specifically the veto power, by act of Congress alone. The response is as follows: Article I, section 5 of the Constitution permits this procedure. Nothing in Article I, section 7 is violated by this procedure. Under this proposal, all bills must be presented to the President. He may sign or veto all bills. He must return vetoed bills with his objections. Congress may override any veto with a two-thirds majority of each House. Under Article I, section 5, Congress possesses the power to define a bill. Congress certainly believes that it possesses this power, since it alone has been doing so since the first bill was presented to the first President in the first Congress. If this construction of Article I, section 5 is correct, the definition of a bill is a political question and not justiciable. Prominent on the surface of any case held to involve a political question is found a textually demonstrable constitutional commitment to issues to a coordinate political department. A textually demonstrable constitutional commitment of the issue to the legislature as found in each House may determine the rules of its proceedings. Congress may define as a bill a package of distinct programs and unrelated items to be separate bills. Either Congress has a right to define a bill or it does not. Either this proposal is constitutional or the recent practice of Congress informing omnibus bills containing unrelated programs and nongermane items is constitutionally challengeable. If the latter, the President would be well advised to bring such suit against the next omnibus bill.

I think, basically, Professor Best lays it out there. The Congress has a right to determine what a bill is. The Congress may define as a bill a package of distinct programs and unrelated items. And her argument, which I support, is that therefore the Congress of the United States can define a single enrollment which was part of a package as a bill as well.

But we will probably have much more debate on that in the couple of days ahead. I want to express again my admiration for Senator BYRD, the Senator from West Virginia, for his erudite and compelling and well-informed arguments. I watched a great deal of the debate today between the Senator from Indiana and the Senator from West Virginia. I think it was edifying, and I think many of my colleagues had the opportunity to observe them. I think most of the arguments concerning constitutionality, enrollment, and other aspects of the line-item veto were well described. I, again, express my admiration for the talent and enormous knowledge that the Senator from West Virginia possesses.

Again, I want to emphasize again that a lot of time has been taken, and more time will be taken on the floor on this issue. This is a fundamental and structural change in the way we do business. I believe it deserves thorough ventilation and debate. At the same time, I believe we can probably bring it to a close. I thank the Senator.

UNANIMOUS-CONSENT AGREEMENT

Mr. MCCAIN. Mr. President, I ask unanimous consent that at 10:30 a.m. on Wednesday, Senator BRADLEY be recognized to offer an amendment on tax expenditures on which there be the following time limitation prior to a motion to table, with no second-degree amendments to be in order prior to the motion to table: 30 minutes under the control of Senator BRADLEY, 15 minutes under the control of Senator MCCAIN.

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

MORNING BUSINESS

Mr. MCCAIN. I ask unanimous consent that there be a period for morning business.

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

REPORT ON THE EXPORT ADMINISTRATION ACT—MESSAGE FROM THE PRESIDENT—PM 35

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States:

To the Congress of the United States:

In accordance with section 3(f) of the National Science Foundation Act of 1950, as amended (42 U.S.C. 1862(f)), I am pleased to transmit to you the Annual Report of the National Science Foundation for Fiscal Year 1993.

The Foundation supports research and education in every State of the Union. Its programs provide an international science and technology link to sustain cooperation and advance this Nation's leadership role.

This report shows how the Foundation puts science and technology to work for a sustainable future—for our economic, environmental, and national security.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *March 21, 1995.*

REPORT OF THE NATIONAL SCIENCE FOUNDATION FOR FISCAL YEAR 1993—MESSAGE FROM THE PRESIDENT—PM 36

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Labor and Human Resources.

To the Congress of the United States:

1. On August 19, 1994, in Executive Order No. 12924, I declared a national emergency under the International Emergency Economic Powers Act (IEEPA) (50 U.S.C. 1701 *et seq.*) to deal with the threat to the national security, foreign policy, and economy of the United States caused by the lapse of the Export Administration Act of 1979, as amended (50 U.S.C. App. 2401 *et seq.*) and the system of controls maintained under that Act. In that order, I continued in effect, to the extent permitted by law, the provisions of the Export Administration Act of 1979, as amended, the Export Administration Regulations (15 C.F.R. 768 *et seq.*), and the delegations of authority set forth in Executive Order No. 12002 of July 7, 1977 (as amended by Executive Order No. 12755 of March 12, 1991), Executive Order No. 12214 of May 2, 1980, Executive Order No. 12735 of November 16, 1990 (subsequently revoked by Executive Order No. 12938 of November 14, 1994), and Executive Order No. 12851 of June 11, 1993.

2. I issued Executive Order No. 12924 pursuant to the authority vested in me as President by the Constitution and laws of the United States, including, but not limited to, IEEPA. At that