

warfare? Who believes that is fair, Mr. President? Who believes that the people making \$100,000 a year or more—which includes every single Member of Congress—who believes we ought to be getting 76 percent of this tax cut. How can I believe that this is fair while the people of my State—where the median family income is less than \$30,000 a year—will get only 6.4 percent of the cut?

Mr. President, here is a USA Today poll. It points out what I have been saying for months around here. I never lost a friend voting for a tax cut. It is so wonderful to be able to vote for a tax cut and go back home and say, "Look what we did," and beat our chests. I get letters from people who want their taxes cut. But I get more letters from people who want the deficit reduced. People who are making \$30,000 a year or less would gladly give up that \$124 tax cut in return for a balanced budget. Do you know why? Because if we balance the budget, it will hold down inflation and interest rates. Mortgage interest will be less, interest on car loans will be less, the economy will be more stable, the dollar will stabilize. Why in the name of God are we considering this tax cut when polls like this one indicate that 70 percent of the people in this country say they want the deficit reduced before they want a tax cut? Only 24 percent of the people in this poll said, "I want the tax cut over deficit reduction."

Do you know who the House agreed with when they passed the tax cut last night? Not with the 70 percent of the people who say, "Deficit reduction first." And, actually, not with the 24 percent of people who say they want a tax cut more than they want deficit reduction. No, the House agreed with this 5 percent of people who say, "We want both." That is what the House is saying. "We are going to cut your taxes and balance the budget, too." Think about it—5 percent of the people in this country saying we want both—and that is where the House comes down.

We tried that \$3.5 trillion ago in 1981. Here is a graph that shows pointedly and precisely what happened. In 1981—and I remember it well—Ronald Reagan's press conference, after Congress passed his tax cut plan. He said, "You have given me the tools. Now I will do the job. We will balance the budget by 1984 and with a little luck we will balance it in 1983." Those were Ronald Reagan's words.

Well, it did not happen. Instead the deficit shot up to record levels. I want it put on my epitaph that I was 1 of the 11 U.S. Senators who voted against those 1981 tax cuts. I said, "You will create deficits big enough to choke a mule." They turned out to be big enough to choke an elephant.

Look at this chart. Here was our deficit in 1981 and here is how the Reagan administration said they would reduce the deficit. That was the promise. That was the siren song that an irresponsible Congress bought into.

But what happened? The deficit did not go down as promised. Look where it went. By the time we were supposed to have a balanced budget in 1983, we had \$200 billion deficits and we have never had one less than that since.

Ironically, I can remember the last year Jimmy Carter was President, the deficit was \$65 billion and people were threatening to impeach him. Unthinkable.

No, Mr. President, I am not voting for a tax cut. I am going to vote the way 70 percent of the people of this country want me to vote. When it comes to fairness, the tax cut, even if desirable, is hopelessly inequitable and unfair. The greatness of this Nation, the greatness of the Constitution, is it says each one of us counts. We are all somebody.

Whether you like Jesse Jackson or not, I always like it when he has those kids say, "I am somebody." The soul of America is that each one of us counts. And no one of us should count for \$12,000 or \$11,000 a year more than the people who did not happen to be born quite so wealthy.

This chart shows where the deficit has been going since Bill Clinton became President. There it is in 1995. Here are his projections for the out-years and here is the projection the American people want. They want that deficit to continue going down. They do not expect miracles, but they do expect a responsible, thoughtful Congress to give this Nation a chance. Give our children a chance. You are not ever going to achieve the greatness of this Nation by cutting student loans, or AmeriCorps, where people can pay off their student loans.

When the families of America sit around the dinner table in the evening and talk about what they love most, it is not the tax cut. It is not that Mercedes out in the driveway. It is not that nice big split-level home. It is not the farm out back or that posh office downtown. What they talk about most is loving their children. In light of that, what do you think the ordinary American person with a family believes—that he or she should get a few dollars more in spendable income or that this Nation ought to start living within its means so that those children have a real opportunity, not a saran-wrapped opportunity, but a real one.

I come down on the side of all of those American families. My children are all grown. I have two grandchildren. They deserve better than they are going to get if we do not reverse our overspending ways; if we do not show the kind of responsibility they have a right to expect of us.

Mr. President, I believe the Senate will show a great deal more discretion in dealing with this, and if we do not, if we do not, the chart you saw a moment ago of what happened from 1980 to 1995 will just be compounded.

Mr. President, I have taken more time than I really intended to take. I feel very strongly about it and will

speak again on the subject and again and again. My side may lose just as 11 of us lost in 1981. But I am absolutely certain without intending to be arrogant or self-serving that it will be one of the greatest travesties ever to befall this Nation.

Mr. President, I yield the floor.

#### EMERGENCY SUPPLEMENTAL APPROPRIATIONS ACT

The Senate continued with the consideration of the bill.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the majority leader.

Mr. DOLE. Mr. President, we had hoped that we might have an agreement reached on the rescissions bill. But apparently that will not be possible. So there will be a cloture vote at 2 o'clock. We will file cloture again today for a vote on Saturday because we intend to finish this bill before we leave for the Easter recess; spring recess.

I would hope that our colleagues on the other side would understand that we, this Senator and the Democratic leader, worked in good faith most of yesterday into the evening until 9 or 10 o'clock. So did other Members on our side of the aisle, the Senator from Pennsylvania, and both Senators from Arizona. And we believe we gave up a great deal to get an agreement. I thought there was an agreement until I read it in the morning paper.

So I was surprised when I later learned that our colleagues on the other side did not agree to the agreement we thought we had agreed to.

Having said that, I hope we can invoke cloture. If we do that, a lot of these amendments will disappear. I do not know how we can deal with 100-and-some amendments that are out there. But if cloture is obtained, that will shorten the process a great deal.

I do not know where the hot buttons are on the other side. I maybe know of one or two of them. But it seems to me many of the so-called "cuts" were in effect funny money and many of the add-ons are not going to be spent either. But if both sides felt they had a good position, I fail to understand what may have derailed the whole process.

But there will be a cloture vote at 2 o'clock. The second-degree amendments must have been filed by 1 o'clock. So it is too late to file second-degree amendments.

It is still my hope that Senator DASCHLE and I can bring everybody together here. I think we are pretty much together on this side. What we want is an agreement with no amendments. We do not want an agreement and then have everybody say we have 10 amendments here and 10 amendments there. If you have an agreement, you have an agreement. Right now we do not have an agreement.

So I just urge my colleagues to be patient, to take two aspirins, take a nap, whatever. If we finish this today, we

will finish some conference reports, and hopefully we will be in session tomorrow but no votes. If we do not finish today, we will be in session tomorrow with votes and we will be in session on Saturday with votes.

Mr. BUMPERS. Will the majority leader yield for a question?

Mr. DOLE. Certainly. I yield.

Mr. BUMPERS. The announced consent agreement has not been pro-pounded yet has it?

Mr. DOLE. Only with respect to the adoption of the Jordan amendment.

Mr. BUMPERS. How many amendments do you anticipate would be allowed under an agreement?

Mr. DOLE. We thought we had narrowed it down to about four on each side. We thought some of those were acceptable. Some who had problems with the CPB, said, "Well, give us \$20 million somewhere else in spending restraints." So they have to be "this or nothing."

I think, as has been the attitude certainly of the Democratic leader, Senator DASCHLE, as we both know, it can still come together, and I hope it would because we could finish late afternoon and that would be probably the last vote until we come back from recess.

Mr. BUMPERS. I thank the leader.

Mr. SANTORUM addressed the Chair. The PRESIDING OFFICER (Mr. THOMPSON). The Senator from Pennsylvania.

Mr. SANTORUM. Thank you, Mr. President.

Mr. President, I am incredibly disappointed at the outcome of this negotiation. I had hoped that the good-faith effort of the majority leader who stayed here late last night and worked on this bill late, and diligently, and I think more than bent over backward to accommodate leadership on the Democratic side to help them restore some of the money that they felt was so desperately needed for programs that they have long fostered and supported in this institution.

We have been working with the majority leader, several members of the freshmen class, Senator KYL from Arizona, Senator ASHCROFT from Missouri, Senator MCCAIN from Arizona, and myself have been working to try to craft an amendment that recognizes the concerns of the minority and at the same time preserve some of the objections that we had to the bill. Frankly, we thought we were pretty generous.

The minority leader came in and asked in the original amendment, the amendment that was pending, for almost \$1.3 billion in more spending, more spending on almost all social programs; just more social program spending. These were not, just so you understand, the bill that came to the floor of the House—the Hatfield substitute was not—had increases in these programs. Every one of these programs that the minority leader asked for already had an increase from last year. They already had an increase, and in many cases huge amounts of increases. But

they cut back a little bit on the rate of the increase with the Hatfield substitute.

The Democratic leader did not like that. So he jacked it back up. OK. We said, fine. You want to jack up some programs and put them back to the level that they were before, which was a dramatic increase over where we were last year, you think those are the most important, we understand the sensitivity you have, we are willing to work on that.

As Senator DOLE, and other freshmen, came forward with an amendment, we said we believe we should offset these expenditures not with money from a year or two down the road—which is what the minority leader, the Democratic leader—they pulled back money out that was funny money from years down the road. You want to spend money this year, let us take money out this year. That is the way we should do things around here, not spend more money this year and find funny money down the road to pay for it. We have been doing that a long time around here. Let us get serious.

And so we got serious. We made a serious compromise. And we thought we had a serious compromise agreement that would have accomplished three major things. No. 1, it would have given the minority leader, Senator DASCHLE, and folks on his side almost all of what they wanted in this increase in social spending—almost. Instead of \$1.3 billion, we give \$800 million in more spending—\$800 million in more spending on many programs that are not exactly well received on this side of the aisle, like the AmeriCorps Program. We gave them an increase in the AmeriCorps Program from what the Appropriations Committee had suggested. We allowed an increase of \$100 million in a program that in our amendment we wanted to cut by \$200 million.

So from where we started, we gave them a \$300 million increase. That was not good enough. We gave them all the money they wanted in WIC, school-to-work, child care, Head Start, \$60 million of the \$67 million they wanted for Goals 2000, title I, impact aid, safe and drug-free schools, Indian housing, housing modernization, community development banks—every social program, all the way down, they got almost all of what they wanted. We took some of their cuts. Some of the things they used in the original Daschle amendment to pay for this bill we accepted, we accepted as ways to pay for this.

And we said, OK, in exchange for not getting all that you wanted, we will not take all that we wanted. We will get rid of a lot of the proposed reductions that we wanted. And we put on the table some pretty minor things, folks—reducing the foreign operations, foreign aid by \$25 million—\$25 million; libraries by \$10 million—and by the way, the libraries money was the President's rescission; that is the Presi-

dent's suggestion to us to take this money out, said it was not needed—Federal administrative travel, something that they agreed to, that they suggested we increase, we increased to a cut of \$225 million. By the way, that is out of a \$107 billion budget we are taking out \$225 million for Federal travel, hardly something that the public is concerned about, that we are not traveling enough around here; water infrastructure; and, oh, the sticking point. We took out of their sacred little cow \$21 million of \$312 million. We took \$21 million out of the Corporation for Public Broadcasting.

In the end, we would have had savings of \$1.6 billion. They had additional spending of \$800 million which would get us a net deficit reduction out of this amendment of \$800 million. So we both win. They get \$800 million more spending, we get \$800 million in deficit reduction, so everybody sort of stands even.

I always thought that is what compromises were all about. And so I am hopeful that in the next 45 minutes, the other members of the Democratic caucus who seem to be holding up this compromise take a look at this and realize it is in the best interests of this body and this Congress and this country to move forward with this compromise piece of legislation and get this enacted.

Mr. President, I ask unanimous consent that a paper entitled "Possible Compromise" be printed in the RECORD.

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

*Possible Compromise*  
[Dollars in millions]

	<i>Cost</i>	<i>Savings</i>
<b>Add-Backs:</b>		
Women, Infants, Children .....	\$35.0	
School to Work .....	25.0	
Child Care .....	8.4	
Head Start .....	42.0	
Goals: 2000 .....	60.0	
Title I Education .....	72.5	
Impact Aid .....	16.3	
Safe and Drug-free Schools .....	100.0	
Indian Housing .....	80.0	
Housing Modernization .....	220.0	
AmeriCorps .....	105.0	
Community Development Banks ....	36.0	
<b>Total .....</b>	<b>800.2</b>	
<b>Offset:</b>		
Foreign Operations .....	\$25.0	
HUD Section 8 Project Reserves ....	500.0	
Airport Improvement .....	700.0	
Libraries .....	10.0	
Federal Admin. and Travel .....	225.0	
Water Infrastructure .....	62.0	
IRS .....	50.0	
Corp. for Public Broadcasting .....	121.6	
<b>Total .....</b>	<b>1597.0</b>	
<b>Deficit Reduction .....</b>	<b>796.8</b>	
<b>Addendum: Items in Dole amendment used in Defense Conference:</b>		
Foreign Ops .....	\$40.0	
Legal services .....	15.0	

<sup>1</sup>\$3.4 million in 1997.

Mr. SANTORUM. I yield the floor.

## APOLOGY FOR RADIO REMARKS

Mr. D'AMATO. Mr. President, two mornings ago I gave a radio interview on the Imus talk show program.

I am here on the Senate floor to give a statement as it relates to that episode.

It was a sorry episode.

Mr. President, as an Italian-American, I have a special responsibility to be sensitive to ethnic stereotyping. I fully recognize the insensitivity of my remarks about Judge Ito. My remarks were totally wrong and inappropriate. I know better. What I did was a poor attempt at humor. I am deeply sorry for the pain I have caused Judge Ito and others. I offer my sincere apologies.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

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

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

#### REPORT OF THE BUREAU OF JUSTICE STATISTICS ON TORT CASE FILINGS

Mr. GRASSLEY. Mr. President, today I want to discuss a Bureau of Justice Statistics special report that is supposed to be released in the very near future. I am very disturbed about what I consider to be the political manipulation of a Government report.

This draft report concerns tort cases in State courts. One of the so-called findings of what is, undoubtedly, a flawed report, is that tort case filings have remained steady and that there is no tort litigation explosion.

I believe this document by the Bureau of Justice Statistics was clearly prepared for political reasons. This is underscored by the fact that the study conveniently omits any study of the cost of torts; it omits all Federal liability suits; and it is a scientifically flawed telephone-based survey on only a fraction of the counties in the United States. In addition, the report does not even address many of the important issues regarding tort reform.

Included in this report are some of the results from a study of tort cases in State courts. The study claims that the basis of this report is a representative sampling of the courts in which half of all tort cases nationwide are adjudicated. I disagree with that, Mr. President.

First of all, the report only involves 16 States and a total of 75 counties out of our more than 3,000 counties, but there is nothing scientific about their selection. They are simply the 75 most

populous counties, and even if they were selected randomly, the results would not have been much better. Filings are not random occurrences; the number of filings in any set of counties cannot possibly represent anything but the counties that are being surveyed.

Worse, this study does not even involve the use of the most rudimentary sampling techniques. It relies on only the 75 largest counties and further stratified them so that only samples of the data in some of the counties were used.

After reading over this study, you will find that there is a lack of rational sampling methodology in selecting which counties would be used. There is absolutely no evidence contained in this Bureau of Justice Statistics special report that the counties selected are in any way representative of the entire United States.

However, once the counties were selected, only a few of those were used to select various kinds of data. The counties were divided into four strata, although it is not clear how the strata were defined. In the first strata, all 14 counties were selected for the first stage of the study; in the second strata, only 12 of 15; in the third, only 10 of 20; and in the fourth, only 9 of 26. In the second phase, the study relied on interval or random samples. It seems unusual to use more than one sampling method as they have here.

In this study, it reads:

Contrary to the belief that there has been an explosion of tort litigation, tort case filings have remained stable since 1986 according to multi-State data.

Now, there is no rational way to identify whether there has been an explosion in tort filings or not from this study, since the data is limited to 1990 for the first phase of the study and for a 1-year period from mid-1991 to mid-1992. It should also be pointed out that the study was based on phone interviews in only 45 of the 75 largest counties.

Now, to determine whether there was an explosion in tort filings, it seems to me that you would need to start with data at least as far back as 1970, or maybe as late as 1980, and run a longitudinal analysis to see what happened. The study simply declares out of thin air that "multi-State data" since 1986 proves that there has not been any such explosion. Another concern I had was the fact that no financial data of any kind was shown anywhere in the report. Let me stress that again. In this whole study of tort liability explosion, there is no financial data of any kind involved in the report.

This means that there is no way to identify the most important of all indicators. The report simply omits any discussion of whether the size of tort awards had changed over the years.

Because there are no financial data, there is no way to see if venue shopping is real or not. For example, we know that awards in certain counties in Texas are extreme. However, you would not know that from this report.

The report also conveniently fails to provide any information on the effect of large tort awards on settlements. In other words, one could ask, are settlements made more often now without regard to the merits of the case because of the threat of an expensive suit? This study does not answer that question, and it does not do it, of course, because it also conveniently failed to include any data on award amounts.

Lastly, this report does not limit itself to the torts with which we are most concerned, those that affect products, like product liability, those that affect premises liability and medical malpractice. It does not include any of those. Instead, it includes auto torts, which make up more than 60 percent of all tort cases considered. This seems to make every other tort look minor, even though auto torts are very common. Generally, they are very quickly settled and, generally, they involve only one or two parties and relatively small amounts of money. By adding auto torts, the average time for the disposition of all torts falls to about 19 months, whereas the auto torts average less than 17 months.

Yet, all other torts average more like 2 years, involve more parties and they involve much larger amounts of money.

These are just a few of the criticisms that can be leveled at this flawed and ill-conceived report. But the more telling criticism has to do with the timing of its release. I am concerned about the possible political manipulation behind the report. We all know that President Clinton, and one of the most powerful special-interest supporters, the Trial Lawyers Association, opposes tort reform. Apparently, the original plan was to have the report out before the House considered tort reform. The goal now seems to be to release it before the Senate takes up tort reform. The Bureau of Justice Statistics claims the study has been in the system for several years. If this is so and they, indeed, had several years to compile this study, why is it so limited and so conveniently timed?

I strongly believe that this document by the Bureau of Justice Statistics was clearly prepared for political reasons. Once again, this is underscored by the fact that the study conveniently omits any study of the cost of tort, no study of the cost of torts. It omits all Federal liability suits and is a scientifically flawed telephone-based survey of only a fraction of the counties in the United States.

In addition, the report does not address the real issues, such as what effect do large awards have on settlements, and is there extensive venue shopping for those counties which consistently make the most outrageous awards?

You could hypothesize about the answers to these questions. That is why