

minority leader is in a position to speak for enough of us on this side that we could get cloture.

#### LEGISLATIVE BRANCH APPROPRIATIONS FOR FISCAL YEAR 1996

The Senate continued with the consideration of the bill.

AMENDMENT NO. 1827 TO AMENDMENT NO. 1825

Mr. EXON. So, with those comments, Mr. President, I send an amendment to the desk in the second degree and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Nebraska [Mr. EXON] for Mrs. MURRAY proposes an amendment numbered 1827 to amendment No. 1825.

Strike all after the first word and insert: "None of the funds made available in this Act may be used for any program for the selection of Federal Government contractors when such program results in the award of Federal contracts to unqualified persons, in reverse discrimination, or in quotas, or is inconsistent with the decision of the Supreme Court of the United States in *Aderand Constructors, Inc. v. Pena* on June 12, 1995. This section shall be effective one day after enactment."

The PRESIDING OFFICER. The Senator from Texas.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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 President, I ask unanimous consent that the order for the quorum call be rescinded.

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

#### REGULATORY REFORM

Mrs. HUTCHISON. Mr. President, I would just like to talk, again, about regulatory reform. We have been discussing, on this floor, who killed regulatory reform. But the rank and file small business person out in America knows one thing for sure. Regulatory reform just died in the U.S. Senate and the small business person who has been looking for relief so he or she would be able to grow and prosper and create the new jobs that keep our economy vital are not going to have that opportunity because we have not done the job we said we would do to try to get the harassment of Federal regulations off the backs of our small business people.

We have been working on this bill for 10 days. There are hundreds of amendments still left on the bill that we failed to get cloture on once again. We have had three cloture votes. What is it going to take? We have been in rooms meeting, talking about the issues that were raised. But the bottom line is, in 10 days of intense negotiations, floor debate, working on this bill, we have failed and the small business people of our country especially are going to un-

derstand that we did not get regulatory reform. And when 54 out of 54 Republicans voted for it to go forward, I think they are going to figure out who wanted regulatory reform.

We just passed bills that open trade in the world: NAFTA, GATT, so we would have the opportunities to compete. But our business people cannot compete when they are so saddled with regulations that they have to add costs to their product because of the regulations and, therefore, the product will not sell in the international marketplace because it is priced too high. That is the bottom line. That is why it hurts the ability to create jobs in this country, when we have so many regulations that our businesses are spending money in lawsuits and regulatory compliance and they cannot put the money where it needs to be, and that is trying to make their product better, giving jobs to people to create the products and being able to sell those products anywhere in the world because we can be competitive.

So, Mr. President, something died here today and I do not think the small business people of our country are going to be asking who did it. But they are going to know that their regulatory burdens are not going to be lifted.

Mr. President, that is a pretty sad message to have to send to the small business people of this country. We cannot let regulatory reform die like this, by two votes. It would be unconscionable. So I hope the Democrats will get together, and I hope they will say the rhetoric is real and say what we can really do to take away the 300 amendments that are now pending on the bill. And if they are serious, they can do something about it.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. FORD. Mr. President, let me just say, I have been listening to all this back and forth. I think it is part of the process. It does not bother me too much. But I listened to my constituents. One Senator gets up and says it this way. Another Senator gets up and says no, it is this way and you are wrong. No, you are wrong.

Somebody has to be right and somebody has to be wrong. I learned from the other side of the aisle how to file amendments. They bring them in here 100 at a time, you know? They taught us how to put the amendments on. Now we get accused of having a few amendments out. We talk about NAFTA. Something happened to NAFTA in the House because they cut off the ability to help Mexico by eliminating the funding.

The Democrats did not do that, Republicans did. There is a scenario going here, bouncing back and forth like a ping-pong ball. I think it is time everybody understand we do not intend to let this bill die. That is No. 1.

No. 2, we want to continue to talk. I have been here day and night. I do not

think any of the Senators have had to spend the night here recently. Get the cots. The Senator from Texas probably remembers all-night sessions. You know, it gets to be an interesting occasion. It is awfully hard to keep somebody on the floor. It is awfully hard to get any kind of rest, but we have been here all night. Recently we have not done that. That is the debate of this institution.

So when you start badmouthing each other around here, I do not think it helps anyone. It just hardens the situation. I think we ought to continue to talk, continue to work. We want to make as good a bill as we possibly can.

I have never heard in any of the remarks tonight what it does to individuals. What does it do to the general public? What does it do to the worker? What are these things we are trying to do here now?

I hear nothing about big business. Big business had a 14-percent increase in profits the first quarter and individual hourly wages went down. Something is going well out there, if they are making that kind of money. Somehow we have to come together and think about the individual and working with the companies.

Mr. President, I had not intended to make any remarks. I do not normally make many speeches on the Senate floor. But I just think this knocking each other out here, just hardens the situation. It creates gridlock, to come out here and get accused of things. We do what we think is best. I do not always win. I am having a hard time winning anything right now. But I understand the procedure. I was here for 6 years when the Republicans were in the majority in the Senate before. I went from majority to minority. Then all of a sudden we got it back again. We are back someplace else.

So it is the system, and the system is debate. The system is talking. The system is communicating. The system is doing the best job you can, and you have to have something that you really believe in. And when you vote for it, you voted on the best piece of legislation that can be proposed to this institution. Sure, we have disagreements. That is what it is all about. That is what the committee system is all about. We do basically the same thing in committees that we do on the Senate floor. We listen to witnesses. We make up our mind. We offer amendments. We vote on amendments, and we vote the legislation up or down to send it to the Senate floor. That is part of the system. Then we do it basically again. It goes through the mill several times before it goes to the President for signature.

This is not a stealth Congress. A stealth Congress is to do it real quick and get rid of it before you get someone to jump on you or before the phone starts ringing off the hook, before people start sending out letters. Stealth Congress is to do it quick and get it over with.

Some things are too important to do them quickly and get it over with. Some things are too important to individuals in this Chamber. And I learned from Majority Leader Mike Mansfield that on the Senate floor everybody is equal except the majority leader and the Democratic leader in this case. And the Chair recognizes them before anybody else. I understand that. That is a precedent. We exercise that. But everybody else has an individual right here. So we exercise that. I hope that we never lose that and that we start working together rather than try to divide, which will not get us together in the future.

I yield the floor, Mr. President.

Mr. GRAMM addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

#### LEGISLATIVE BRANCH APPROPRIATIONS FOR FISCAL YEAR 1996

The Senate continued with the consideration of the bill.

Mr. GRAMM. Mr. President, I think we are talking about unanimous-consent requests here that will allow both of these amendments to be voted on. So let me go ahead and talk about my amendment, which is the amendment that is trying to eliminate set-asides in the Federal procurement process—in the context of this bill as a beginning. And then let me explain why the Murray amendment is a sham amendment that does not deal with the problem but that simply gives cover to those who want to allow set-asides in the funding for the legislative branch.

Let me begin with my amendment. My amendment is the amendment that we have worked on with outside legal groups. It has been endorsed by the leadership in the House, it is being offered by Congressman GARY FRANKS, and it is basically an effort to focus in on one particular problem.

This is a precise, surgical amendment, and what it says is this: The bill before us is the legislative branch appropriations and this amendment deals with nothing except legislative branch appropriations. I plan to offer a similar amendment on other appropriations bills that come to the floor of the Senate this year.

What this amendment says is that in the letting of contracts, in spending money, none of the money will be spent in such a way that requires or encourages the awarding of any contract or subcontract if such an award is based, in whole or in part, on the race, color, national origin, or gender of the contractor or subcontractor.

So what this amendment says in its first part is that when we spend money through the congressional branch of Government, we have to engage in competitive bidding, and that when someone submits the low bid who is qualified, that person will get the contract, and that in no circumstance can the low bidder, who is at least equally

qualified, be denied the contract to give it to someone else based on a preference that flows from race, color, national origin, or gender.

That is part 1 of my amendment.

Part 2 of my amendment has to do with outreach and recruitment activities. And part 2 of the amendment makes it very clear that nothing in this amendment would prevent any effort to help people bid on contracts, to hold seminars on bidding, provide assistance to people who want to bid on contracts, or go out and inform people of the existence of those contracts.

In short, we can expend money. We can exercise tremendous effort to try to help people get on the playing field and to compete. But once contract offers have been submitted, then the selection process must be based on merit—and on merit alone.

The next provision of the bill makes it clear that we are not seeking here to override contracting that is done with schools designated as historically black colleges and universities.

The next provision of the bill makes it clear that this is all prospective. We are not going to go back and undo any existing contracts. In addition, we are not going to override any existing court orders. If a court acts in the future and finds that a remedy for discrimination is the establishment of a set-aside, we are making it very clear that would stand.

Now, basically, that is what my amendment does. And if my amendment is adopted, what it will do is end set-asides in contracting for the legislative branch of Government. If this amendment is adopted and it becomes law, what it means is that none of the money appropriated in this bill can be used for the purpose of letting a contract where anybody is given a contract based on race, color, national origin or gender.

Now, let me talk a minute about the Murray amendment, because what we have in the Murray amendment is the same convoluted language that the President used yesterday. This is more of the same effort to try to use words to confuse. Let me just read it to you, and I think that if you think about it a minute it jumps out at you as to what this amendment is trying to do. Let me read you the language:

None of the funds made available in this act may be used for any program for the selection of Federal Government contracts when such program results in the award of Federal contracts to unqualified persons.

Mr. President, no one is saying that people who get contracts because of race or color or national origin or gender are necessarily unqualified. That is not the point. In fact, it seems as though the whole purpose of this language is to confuse. What we are saying is they are not necessarily the best qualified. They very well may be qualified, but the point is somebody else might have been better qualified or have submitted a lower bid. If all we are doing is saying that you cannot

grant contracts to people who are unqualified, as the Murray amendment says, then we are not doing anything unless I can come in and say: Well, look, I bid a contract to build a sidewalk here at the Capitol and I bid the contract at \$55,000. Someone who was given preference bid the contract at \$155,000, and they got the contract. But under the Murray amendment, the only way that I could get any relief, if I was the contractor who bid it at \$55,000, would be if I could prove that the contractor who got the bid for \$155,000 was unqualified.

Now, they may be qualified; they may be unqualified, but the point is the Federal Government should not be paying \$155,000 for work that it can get for \$55,000. Nor should it be letting contracts in America where somebody is given a special advantage over somebody else.

We listened yesterday as the President gave a very passionate speech, but when you got down to the specific language of the details of the proposal, it was more doubletalk. And the doubletalk basically is the implication that this is an issue about whether a privileged contractor is qualified. It is an issue of whether they are the best qualified.

The second issue has to do with the fact that you cannot give somebody preference over somebody else without discriminating against the person who is not receiving the preference.

In the final analysis, something that the President clearly is clever enough to understand but was hoping we were not clever enough to understand is that whenever you give somebody a special advantage on the basis of race or color or national origin or gender, that means someone else is discriminated against because they do not get that benefit. I believe that what we have got to do is to end set-asides in contracting and what better place to start than in the legislative branch of Government.

So we have before us two amendments. One amendment is a serious, real amendment which says that none of the funds contained in this bill will be used for contracts where someone is given a special privilege so that they get a contract that on the basis of merit they would not have gotten. The other amendment says that none of the funds will be used to award a contract if doing so results in the award of Federal contracts to unqualified persons.

Mr. President, that is not the issue here. The issue here is not whether the contractor who got advantage based on race or color or national origin or gender was qualified. The question is were they the best qualified.

The amendment then goes on to use many terms which are very difficult, if not impossible, to define. For example, "In reverse discrimination." Well, by definition, if the most qualified contractor with the lowest price did not get the contract, I think any reasonable person would call that reverse discrimination.