first, encouraging private sector negotiations, and, second, relying upon the State commissions to arbitrate solutions to the problems that private parties cannot work out. The FCC is responsible for overseeing this process but should not try to take over the process by rehashing all the issues that Congress resolved in the enactment of this act. It needs to implement Congress' blueprint in a balanced, consensus fashion, so that the communications industry can begin the important job of bringing new services, new options, and new technologies to the American public.

Thank you, Mr. President. I yield the floor.

EXHIBIT 1

[From the Wall Street Journal, Oct. 2, 1996]

HOW BUREAUCRATS REWRITE LAWS

(By John J. DiIulio Jr.)

As the historic 104th Congress draws to a close, scholars have already begun to debate its legislative record. Some stress that the first Republican Congress in four decades enacted fewer major laws than any Congress since the end of World War II. Others respond that it was only natural that a new conservative Congress committed to restraining the post-New Deal rise of national government activism would pass fewer big-government bills. Likewise, while some interpret President Clinton's bright re-election prospects as a negative referendum on the GOP-led House and Senate, other focus on how Republicans ended up setting the agenda on everything from balancing the budget to welfare reform.

For at least two reasons, however, both sides in this early war over the 104th history are firing intellectual blanks. One reason is that it is not yet clear how much of the legislation will stick politically. For example, Mr. Clinton has made plain that, if reelected, he plans to ''fix'' the new welfare law. And should the House fall to the Democrats, ultraliberal committee chairmen will move quickly to undo much of what the Republicans did legislatively on welfare, crime, immigration and more.

The other and more fundamental reason is that, no matter what happens in November, it is by no means certain that the laws passed by the Republican Congress over the last two years will survive administratively.

BUREAUCRATIC WARS

Victories won on the legislative battlefield are routinely lost in the fog of bureaucratic wars over what the laws mean and how best to implement them. One of many recent examples is how the Federal Communications Commission has already virtually rewritten the Telecommunications Act of 1996.

On Feb. 8, President Clinton signed the first major rewrite of telecommunications law in 62 years. To many observers, the act represented the culmination of a series of political and judicial decisions that began in 1974 when the U.S. Justice Department filed an antitrust suit against AT&T, leading to a breakup of the old telephone monopoly and the creation in 1984 of the seven regional ''Baby Bells.'' The bill-signing ceremony, the first ever held at the Library of Congress, was draped in symbolism. The president signed the bill with a digital pen that put his signature on the Internet. On a TV screen, Comedian Lily Tomlin played her classic telephone company operator Ernestine, opening her skit with ''one gigabyte'' instead of ''one ringle-dinglie.''

During the debate over the bill and for weeks after its enactment, the press played up the law's social-policy side-shows, like the requirement that most new television sets contain a ''V-chip'' enabling parents to lock out programs deemed inappropriate for children. But its true significance lay in removing barriers to competition in the telecommunications industry, and devolving responsibility for remaining regulation to the states. While its language is often technical, you need not be a telecom junkie to understand the letter of the law or the record of floor debates in Congress.

For example, Sections 251 and 252 of the law promote competition in local telephone markets, expressly giving state commissions authority to decide, via a strictly localized, case-specific process, what constitutes ''just and reasonable'' rates. It affords the FCC no role whatsoever in setting local exchange prices: ''Nothing in this chapter shall be construed to apply or to give the Commission jurisdiction with respect to . . . charges, classifications, practices, facilities, or regulations for or in connection with intrastate communication service.''

The law's devolutionary language and deregulatory intent was so clear that groups such as the National Council of Governors' Advisors quickly produced reports advising key state and local decision makers to prepare for ''telewars in the states.'' Soon, one NCGA report on the law explained, ''governors' offices, state legislatures and state public utility commissioners will be drawn into state debates on how to ensure a 'level playing field for competition' among those firms seeking to provide local and intrastate telephone service.'' The major battles, the NCGA predicted, would be over the terms of price and interconnection agreements. Telephone company rivals could be expected to lobby governors, utility commissions and state legislatures in search of allies.

But within six months of the law's enactment, the FCC declared a victor in the ''telewars in the states''—namely, itself. The commission produced a 600-page document promulgating presumptive national pricing standards in local telephone markets. The FCC insists that the order is necessary to pry open local markets to long-distance carriers like AT&T, small firms like Teleport, and cable and wireless companies. Otherwise, the commission asserts, incumbent local carriers like the Regional Bell Operating Companies will remain invulnerable to real competition as potential entrants to intrastate markets are forced to contend with 50 different, localized state regulatory regimes.

But the FCC's rushed, revanchist rewrite of the telecommunications law is based on a hypothetical pricing scheme that only an armchair economist could love. In its hundreds of pages of national regulatory dictates, the FCC almost completely ignores the actual costs that local companies incurred to create the system, and the regional and other variation in how they operate.

On Aug. 28, GTE Corp. and Southern New England Telephone Co. jointly challenged the FCC in court, arguing that the FCC's order constitutes an uncompensated taking under the Fifth Amendment by requiring them to sell their services at below actual costs. The order, they claim, would almost certainly enervate competition by permitting long-distance giants like AT&T to buy up local phone networks at huge discounts—an ironic potential outcome indeed given how all this began in 1974. Moreover, not only giants like AT&T but fly-by-night arbitrage artists could enrich themselves at the expense of consumers on the spread between actual operating costs and the prices set by the FCC. In response to the suit, a federal appeals court ordered a temporary stay of the FCC regulations and will hear oral arguments in the case tomorrow.

At a recent press conference, GTE's senior vice president and general counsel, former U.S. Attorney General William F. Barr, demanded to know why the FCC believes that it is better at making decisions ''for 50 states than the state commissions are, who have done this historically, who have all the data that are relevant to the state before them.''

A MOCKERY

But whether or not the FCC is wiser than the states, but regardless of who is right about the economics of the case, the FCC bureaucrats' order mocks key provisions of a democratically enacted law. The FCC's action is at odds not only with the textbook understanding of ''how a bill becomes law,'' but the first principles of limited government and American constitutionalism.

The FCC's action should serve to remind us that the devolution and deregulation of federal authority are always in the administrative details. On telecommunications, welfare, and almost every other major issue, big government is the administrative state in which judges and unelected officials, and not the elected representatives who debate and enact the laws, govern us all.●

1984 SINO-BRITISH JOINT RESOLUTION ON THE QUESTION OF HONG KONG

● Mr. MACK. Mr. President, only 270 days of freedom remain for the people of Hong Kong unless the principles of the 1984 Sino-British Joint Declaration on the Question of Hong Kong are upheld and enforced. Although Governor Chris Patton proclaimed yesterday his intention not to go quietly from his post as last Governor of Hong Kong, his stated goals do not go far enough. Martin Lee, Hong Kong's Democratic Party leader, correctly identified Patton's shortcomings on behalf of those who will remain after Beijing takes control of the colony next July.

Governor Patton proclaimed yesterday that he intended to accomplish many things during his remaining time in Hong Kong, but his proposed actions fall short of what is required. We see former Communist states all over the world transitioning to free market economies and forms of democratic governance. The United States and our friends and allies are investing a great deal of effort to aid and assist these transitions. We cannot turn our backs on the only instance of a successful and shining free market democracy transitioning to the darkness of communism. I fear that this will happen on midnight of June 30, 1997.

The world must insist upon implementation of the Sino-British Joint Declaration on the Question of Hong Kong signed in 1984. And then the world must ensure Beijing upholds their agreement. Neither Beijing nor London should back down from this agreement now.

I commend Mr. Patton for his good work on freedom, stability, and prosperity during his tenure as Governor. He has pursued reforms while facing resistance and indeed intimidation from Beijing. But he has been forced to compromise in order to maintain his relationship with Beijing. The price of this compromise is too great.

I must support Hong Kong's Democratic Party leader Martin Lee, who yesterday called on Patton to do more. I also call on the Government in London to do more. The people of Hong Kong should be asked to accept nothing less. The Joint Declaration of 1984 is an international treaty registered in the United Nations. A violation of this treaty by either party represents a violation of international law. London must hold Beijing to the terms of this treaty for the benefit of the people of Hong Kong.

In assessing the situation today, we have Patton's speech and Beijing's promises, but we must focus not on words, but actions. I am primarily concerned with actions taken by Beijing that undermine the promises made in the Joint Declaration. These include: harassing journalists by Beijing such as Hong Kong reporter Xi Yang; threatening to replace the democratically elected legislative council with an appointed provisional legislature; proposing to repeal Hong Kong's Bill of Rights; and assigning power of judicial interpretation to the national People's Congress rather than Hong Kong's courts.

The United States must strongly urge Beijing to grant Hong Kong the level of autonomy promised in the Joint Declaration. United States policy must acknowledge the Joint Declaration as an international treaty possessing the force of law. It is a matter of international law that the parties to the treaty abide by their solemn obligations undertaken in the Joint Declaration.

The United Kingdom should make a determination as to whether China's plans to replace the legislative council are a violation of the Joint Declaration. But even if London fails in this responsibility, the United States cannot sit idly by when, by anyone's reasonable interpretation, China violates its international treaty obligations, especially when the stakes are as high as they are with Hong Kong.

Over the next 9 months, I intend to continue to raise the level of attention of the Hong Kong transition. The principles at stake touch the core of the minimum standard of freedom upon which we must insist.●

TRIBUTE TO THE STAFF OF THE COMMITTEE ON ENERGY AND NATURAL RESOURCES

● Mr. JOHNSTON. Mr. President, when I first came to the U.S. Senate, I was assigned to the Committee on Interior and Insular Affairs, which we of course know today as the Committee on Energy and Natural Resources. As I prepare to finish my Senate career, I look back on my years on that committee as the source of the most rewarding and intellectually stimulating challenges of my years here. From the Arab embargo of 1973 to the natural gas wars of 1978, from the complex Alaska land issues of the early 1980's to the National Energy Policy Act of 1992, we have been engaged in vitally important work that is often long on complexity and short on glamour.

I am proud of the record we achieved, not only during my 8 years as chairman, but throughout my service, and I wish today to say thank you to a professional staff unlike any other, one which has served the committee and the country so well over the years.

Some of the best minds in the country have served on the committee staff over the years. Whatever their reasons for coming, I believe most stayed and relished their time there because they found themselves in the company of other keen minds, and they knew that their mission would not be mortgaged to politics and that their task was to find honest, pragmatic, workable solutions to vexing problems. Almost all of them have gone on to rewarding careers in government and business, and I can only hope they were as enriched by their experience as the public product was by their service.

Luckily for me, some of the very best and brightest have remained to assist me as my service in this body comes to a close.

BEN COOPER

One of those staff members who has served me the longest and with particular distinction is the minority staff director of the committee, Dr. Ben Cooper. About the time I joined the committee, we became involved in the development of national energy policy in response to the crude oil supply interruptions in the Middle East that were disrupting our domestic economy. The committee has continued to be involved deeply in this issue, as indicated by its current name, which was attached to the committee during the reorganization of Senate committees that occurred in early 1977.

Shortly after I joined the committee, a long-haired doctor of physics joined the Democratic committee staff from Iowa State, where he had been an instructor. He first joined the staff as a congressional science fellow employed by the then-chairman, our dear departed colleague, Senator Henry M. Jackson. Since those early days, I have worked closely with Ben, who officially became part of my staff in 1981, when I became ranking minority member of the committee. Ben has continued with me through my chairmanship of the committee and through our return to the minority.

Mr. President, there can be no better staff than Dr. Ben Cooper. He is perhaps the only remaining staff of either the House or Senate who has a complete institutional memory of the evolution of modern Federal energy policy. Ben has been active on energy issues that range from crude oil pricing to natural gas deregulation to the current electric restructuring debate. Ben is particularly an expert on nuclear policy, as would be expected from his physics background. I can say without reservation that Ben has played an active and, usually, key staff role on every piece of legislation relating to nuclear matters that has been considered by Congress in the last 20 years. In addition, Ben has played a key role on non-energy-related legislation ranging from public lands legislation to the risk assessment legislation that has been considered by the Senate during the last two Congresses.

Mr. President, throughout his long career as Senate staff, Ben has earned a reputation for honesty and professionalism both among the staff and Members of the House and Senate. Unfortunately for the Senate and, I believe, the process of developing sound public policy, Ben has indicated that he will be leaving the Senate by the end of the year to pursue new challenges.

Mr. President, my friendship with Dr. Ben Cooper will continue, but our daily interaction is not likely to continue, and I will miss Ben's daily good counsel tremendously. I commend Ben for a career well spent and well conducted, congratulate him on the contribution he has made to our Nation and wish him the best in his future pursuits.

TOM WILLIAMS

The Senate Energy and Natural Resources Committee has been fortunate to have a second long-term Democratic staff member who is as eminent in his field as is Dr. Cooper in the field of energy policy. I refer, of course, to Tom Williams, who is without equal in his knowledge of Federal policy toward public lands, national parks, the U.S. Forest Service and a variety of lands issues relating to the great State of Alaska.

Tom joined the Democratic staff of the committee in 1973 and has continued his service with the committee through today, except for a brief interlude at the Department of the Interior early in the current administration. During his service with the committee, Tom has served as key staff on every public lands and national parks bill that has been considered or enacted by the U.S. Senate. No staff member in the Congress has a greater institutional knowledge of these important, and often divisive issues that are often at once arcane and tremendously important both to the Nation as a whole and to individuals that may be affected directly by Federal policy.

I have had the pleasure of considering Tom ''my'' staff since I became ranking member of the committee in 1981. Throughout that period of time, I have valued Tom's counsel not only on the parks and lands issues, but on a host of other issues including the mining reform legislation that has been considered by the committee in the past several Congresses. Tom has the ability to counsel wisely and honestly on the various policy options available and on the often diametrically opposed arguments of industry and the environmental community. Tom has that great ability, shared by Ben Cooper and many of my staff, to remain calm and